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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

SPAIN*

[18 November 1994]

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* The second periodic reports submitted by the Government of Spain concerning rights covered by articles 6 to 9 (E/1984/7/Add.2), 10 to 12 (E/1986/4/Add.6) and 13 to 15 (E/1990/7/Add.3) were considered by the Sessional Working Group of Governmental Experts in 1984 (E/1984/WG.1/SR.12 and 14) and 1986 (E/1986/WG.1/SR.10 and 13) and also by the Committee on Economic, Social and Cultural Rights at its sixth session in 1991 (E/C.12/1991/SR.13, 14, 16 and 22).

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I. GENERAL PROVISIONS OF THE COVENANT

A. Article 1

1. The 1978 Spanish Constitution is based on the unitary structure of the State, but at the same time recognizes the right of territorial, regional or national entities to set themselves up as Autonomous Communities with powers of self-government. Sovereignty is vested in a single depositary, the Spanish people, considered as a whole and whose "indissoluble unity" is enshrined in the "Spanish Nation, the common and indivisible home country of all Spaniards" (art. 2). At the same time, the Constitution considers that the State is made up of different regions and nationalities, whose right to self-government is recognized and guaranteed in a spirit of common solidarity (also art. 2).

2. According to article 137 of the Constitution, the State is organized territorially into Municipalities, Provinces and "such Autonomous Communities as may be constituted". Hence access to autonomy is not imposed by the Constitution, which leaves every region or national community free to choose. In other words, the principle of free initiative takes precedence over that of compulsory regionalization.

3. The greatest innovation in the Constitution consists in introducing the term "nationalities" for the first time in Spanish constitutional history. The unity of the State is compatible with the existence of different nationalities. Nevertheless, the Constitution does not state what territories are constituted by those nationalities.

4. The rules applying to the Autonomous Communities are contained in title VIII, chapter 3, of the Constitution.

5. The Statutes of Autonomy constitute the basic institutional rules of every Autonomous Community, and the State recognizes and protects them as an integral part of its legal order (art. 147.1).

6. The Constitution has basically provided different procedures for the drafting and approval of Statutes, depending on the specific circumstances in which the Communities seek autonomy and which are set out in the Constitution. This diversity of formal procedures is not only relevant from the time standpoint, but also implies significant differences in practical terms, both with regard to the degree of participation of the Community itself or its representative bodies in the process of defining the content of its Statute, and as regards the Community's future sphere of competence.

7. The ordinary procedure is set out in article 143-2 of the Constitution and the first transitional provision, and the special procedure in article 151-1 and the second transitional provision.

8. The common procedure is very simple and its approval gives rise to the granting of a Statute by the State Parliament to the Autonomous Community concerned. Under the terms of article 146, the draft Statute has to be drawn up by an ad hoc assembly and submitted to the Cortes for approval as an Act. The special procedure introduces a number of specific provisions whereby the Statutes are prepared jointly by the Central Parliament and the Community concerned.

9. The following Communities hold a Statute of Autonomy at present:

(a) Basque Region: Approved by Organization Act No. 3/1979 of 18 December 1979;

(b) Catalonia: Approved by Organization Act No. 4/1979 of 18 December 1979;

(c) Galicia: Approved by Organization Act No. 1/1981 of 6 April 1981;

(d) Andalusia: Approved by Organization Act No. 6/1981 of 30 December 1981;

(e) Asturias: Approved by Organization Act No. 7/1981 of 30 December 1981;

(f) Cantabria: Approved by Organization Act No. 8/1981 of 30 December 1981;

(g) La Rioja: Approved by Organization Act No. 3/1982 of 9 June 1982;

(h) Murcia: Approved by Organization Act No. 4/1982 of 9 June 1982;

(i) Valencia: Approved by Organization Act No. 5/1982 of 1 July 1982 and Organization Act No. 12/1982 of 10 August 1982, transferring State powers to the Community of Valencia;

(j) Aragón: Approved by Organization Act No. 8/1982 of 10 August 1982;

(k) Castilla-La Mancha: Approved by Organization Act No. 9/1982 of 10 August 1982;

(l) Canary Islands: Approved by Organization Act No. 10/1982 of 10 August 1982;

(m) Navarre: Approved by Organization Act No. 13/1982 of 10 August 1982;

(n) Extremadura: Approved by Organization Act No. 1/1983 of 25 February 1983;

(o) Balearic Islands: Approved by Organization Act No. 22/1983 of 28 February 1983;

(p) Madrid: Approved by Organization Act No. 3/1983 of 25 February 1983;

(q) Castilla y León: Approved by Organization Act No. 4/1983 of 25 February 1983.

10. The institutional structure of the Autonomous Communities normally consists of:

(a) A legislative assembly elected by universal suffrage;

(b) A Government Council, with a President elected by the Assembly and appointed by the King;

(c) A High Court of Justice.

11. Powers of the Autonomous Communities: Article 148 of the Constitution lists the matters for which the Autonomous Communities may assume jurisdiction, while article 149, paragraph 3, stipulates that "matters not expressly assigned to the State by the present Constitution may fall under the jurisdiction of the Autonomous Communities by virtue of their respective Statutes". This means that the powers of Autonomous Communities may vary considerably from one Community to another. In this respect, the Constitution draws a distinction between Autonomous Communities which accede to self-government by the ordinary procedures of article 146 on the one hand, and those which obtain their Statute by the extraordinary procedures of article 151 and the second transitional provision on the other.

B. Article 2

1. Guarantee of rights recognized in the Covenant to non-nationals and differences

12. Under the Spanish Constitution of 1978, the fundamental rights of the individual are interpreted in conformity with international rules, as follows (art. 10, para. 2):

> "The standards relating to fundamental rights and liberties recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and relevant international treaties and agreements ratified by Spain."

13. The rights of foreigners are recognized in title I, article 13, of the Constitution, where it is provided that: "Foreigners in Spain shall enjoy the freedoms guaranteed under the present title in accordance with the terms established by treaty or by law." This general statement is unambiguous: foreigners enjoy the rights and fundamental freedoms set out in title I of the Constitution in the same way as Spanish citizens; that is, in principle, all such rights and freedoms, with the proviso that they apply subject to the terms laid down by treaty or by law.

14. The exception to this rule is set out in paragraph 2 of the same article 13, referring to article 23, which reserves for Spanish citizens the rights of active and passive suffrage, except for the right of active suffrage in municipal elections. Article 23 refers to the right to participate in public affairs, directly or through representatives freely elected in periodic elections by universal suffrage. Nevertheless, the Constitution does allow foreigners to vote in municipal elections subject to reciprocity either by treaty or by law. In effect, the only reform of the Constitution in this

respect has consisted in placing the voting rights of Spanish nationals on an equal footing with those of the citizens of the other member countries of the European Union.

15. Account should also be taken of Organization Act No. 7/1985 of 1 July 1985, concerning the rights and freedoms of foreigners in Spain, and Royal Decree No. 1119/1986 of 26 May 1986 approving the regulations for implementation of that Act. The enjoyment by foreigners of the safeguards and guarantees established in the Constitution and in the law is provided for in title VII, article 29, of the above Act.

16. Lastly, the case law of the Constitutional Court is very important in this respect. The Court proposed a threefold classification of rights as enjoyed by foreigners when it stated in its judgement 107/84, FJ 4, JC10, that "there are rights enjoyed equally by Spanish and foreign nationals and which must be regulated equally for both; there are rights from which foreigners are altogether excluded (those set out in art. 23 of the Constitution, as stipulated in the reservation expressed in art. 13.2); and there are other rights to which foreigners may or may not aspire, depending on the applicable treaties and laws, which may justify a difference in treatment with respect to those rights between Spanish and foreign nationals".

17. It is therefore possible to identify three major categories of rights to which foreigners may or may not be entitled. Firstly, there are the rights to which all are entitled, which are the inviolable rights "inherent" in human dignity, in conformity with article 10.1 of the Constitution. These rights include the right to life and physical integrity, freedom of ideology and religion, liberty and security, the right to honour and privacy, freedom of expression, procedural guarantees, and the effective protection of the judges and courts. These are direct constitutional rights.

18. Secondly, there are rights to which foreigners may be entitled if provided for under treaties and under Spanish law, subject of course to the proviso that the essential nature of the right concerned may not be distorted. Such rights include, for instance, freedom of assembly and association and most of the social rights.

19. It is true that in some cases the Constitution appears to restrict the enjoyment of a right to Spanish nationals. Examples of this include article 35.1 (right to work), article 41 (public social-security system for all citizens) and article 47 (right to housing). For other kinds of social rights, the Constitution makes no stipulation or distinction on grounds of nationality, which implies that there are no constitutional obstacles to the recognition of foreigners' rights in that respect. In conclusion, it may be said that with regard to social rights the Spanish Constitution does not refer only to Spanish nationals, although the recognition of foreigners' social rights is subject to modifications, restrictions or reservations as established by treaty or by law, which in turn has to be in keeping with constitutional rules.

20. Thirdly, there are rights from whose entitlement and exercise foreigners are expressly excluded, such as the rights to participation in politics and access to public office, as referred to in article 23 of the Constitution,

except with respect to active suffrage in municipal elections and, naturally, European elections where citizens of the European Union are concerned. Otherwise, freedom of residence and movement, as referred to in article 19 of the Constitution, is also reserved for Spanish nationals, as well as the right of individual and collective petition, referred to in article 29.

2. The right to work

21. With regard to the right to work, the law contains specific provisions against discrimination:

(a) Rules applying to disabled persons include:

(i) The Workers' Statute, article 4, Labour rights: "Nor may they be discriminated against on grounds of physical, mental or sensorial disabilities, provided they are able to perform the work or employment concerned";

(ii) The Social Integration of Disabled Persons' Act, article 38.2: "All regulatory orders, clauses of collective agreements, individual agreements or unilateral decisions by enterprises which imply any form of discrimination against disabled persons in employment with regard to remuneration, working hours or other working conditions shall be considered null and void";

Article 38.3: "In all selection tests for entry into service in the State Administration or Autonomous Communities or in local, institutional or social security administrations, the disabled shall be admitted on equal terms with other applicants";

(b) The rules applying to foreign workers and refugees are as follows:

(i) Royal Decree No. 1119/1986 of 26 May 1986, approving the implementing Regulations of Organization Act No. 7/1985 of 1 July 1985 concerning the rights and freedoms of foreigners in Spain, where article 32 on working conditions stipulates: "The remuneration and other working conditions of foreigners authorized to hold employment in Spain may in no circumstances be inferior to those established under the rules currently applying on Spanish territory or determined by agreement for Spanish workers in the activity, category or locality concerned";

(ii) Workers' Statute, Act No. 8/1980 of 10 March 1980, whose article 4.2 (c) on labour rights establishes the right: "not to be subjected to discrimination in securing employment or, once employed, on grounds of sex, marital status, age (within the limits laid down in this Act), race, social status, religious or political ideas, membership or non-membership of a trade union, or language, within the Spanish State ...".

II. SPECIFIC RIGHTS

A. Article 6

1. State, level and trends of employment, unemployment and underemployment affecting particular categories of workers

Women

22. The proportion of working Spanish women has risen steadily in recent years. This increase is due especially to more women remaining in the labour market even during their reproductive years, although the activity curve still shows a decline in the years when reproductive tasks are more important (25-45 age group).

23. Activity trends have been as follows:

Year	Proportion of working women
1984	27.7%
1989	32.8%
1993	34.5%

24. Unemployment has also risen among women in recent years, although the rise should be seen against the general context of rising unemployment throughout Europe; in the last job crisis, which mostly affected industry and agriculture, sectors where women workers continue to be in a minority, female unemployment grew at a slower rate than male unemployment.

25. Female unemployment figures are as follows:

Year	Female unemployment rate
1984	23.0%
1989	25.4%
1993	28.6%

26. With regard to the stability of employment of wage-earning women, two aspects may be analysed, working days on part-time work and temporary contracts:

Year	Working days full time	Working days part time
1991	3,615,500 (88.77%)	456,900 (11.22%)
1993	3,400,800 (85.20%)	589,700 (14.77%)

27. The figures for temporary work are as follows:

Year	Temporary contracts for women
1991	1,121,700 (37.28%)
1993	1,102,900 (37.20%)

28. With regard to underemployment, the only data found were for 1985 (Source: Analysis of living and working conditions in Spain, prepared by the Ministry of the Economy and Finance); in that year, 38.7 per cent of working women, a total of 2,002,000, were employed in irregular conditions.

29. Lastly, with regard to female employment in the more depressed regions, traditionally the regions with a lower rate of activity among women have been Andalusia, Castilla-La Mancha, Extremadura, and Ceuta and Melilla, where the proportion was under 30 per cent compared with a national average of over 33 per cent in 1991. Communities with a higher rate of activity among women were Galicia, especially in agricultural work, Catalonia, and the Balearic and Canary Islands.

30. Female unemployment exceeded the national average in the Communities of Extremadura, Andalusia, the Basque Region and the Canaries.

Young people

31. The economic crisis which began in Spain in 1979 and led to a considerable loss of jobs over a period of 10 years was felt more keenly in particular groups, and especially young people. Between the fourth quarter of 1976 and the fourth quarter of 1985, the unemployment rate among young people increased by 37.2 percentage points, from 11.4 to 48.6 per cent. In other words, in 1985, practically every other young person wishing to work was unable to do so. The situation had even more serious implications, however, since youth unemployment at the time was concentrated among the youngest members of the group (in the 16-19 age bracket), among women and among young people who had never worked before, with a simultaneous significant rise in the number of long-term unemployed young people.

32. After 1985, the recovery of the Spanish economy and the employment policy measures introduced at that time led to a change in the general employment trend, with positive effects on the figures for youth unemployment. The current reduction in economic activity, however, has led to stagnation in the labour market, with a consequent fall in job opportunities.

33. Between the fourth quarter of 1985 and the fourth quarter of 1991, the number of employed young people increased by almost half a million (469,300, or 32.7 per cent), while youth unemployment fell by the same amount. There were thus half a million fewer young people out of work in 1991 than in 1985. This means that over the period the average annual rate of job creation for young people amounted to almost 83,000, the same figure as the average annual decrease in unemployment in the same group. In other words, the rate of unemployment among young people fell by almost 17 percentage points (16.8 per cent), from 48.6 per cent in 1985 to 31.8 per cent in the last quarter of 1991. The figure rose again to 34.3 per cent, however, in the second quarter of 1992, reflecting the impact of the economic recession.

34. It may also be pointed out that between 1985 and 1991, there was a decrease in the concentration of employment among specific categories of young people, especially among the youngest (16 to 19 age group), where unemployment rates decreased by over 18 percentage points, among both men and women. There

was also a significant drop in unemployment in the previously unemployed category, which in the period 1985-1991 fell by over half a million (575,000, or 59.2 per cent).

35. With regard to long-term and very-long-term unemployment, the situation also improved considerably for young people in the same period, considering that the number of young people out of work for more than 12 or 24 months decreased by more than 47 per cent. Within the fall of half a million in the figure for youth unemployment, 375,000 were accounted for by young people who had been out of work for more than 12 months.

36. Nevertheless, despite the sharp rise in employment among young people in that period and the marked improvement in unemployment, we still have a youth unemployment rate far above the average for the European Union. And there is still a significant concentration of unemployment among young women, for whom the unemployment rate in the fourth quarter of 1991 was 38.7 per cent compared with 26.3 per cent for young men; these figures rose to 39.80 per cent and 29.9 per cent respectively in the third quarter of 1992.

37. With regard to temporary work, we find that this is a phenomenon which mainly affects young people. Thus the percentage of temporary contracts within the total working population is much higher among young people than in the workforce as a whole; the figure has also tended to increase more markedly in recent years. Thus, while among all employed persons the percentage of temporary contracts rose from 28.2 per cent in the fourth quarter of 1989 to 33.3 per cent in the fourth quarter of 1991, among the working population aged under 25, temporary work increased from 63.1 per cent in 1989 to 72.7 per cent in 1991, on fourth-quarter data; that is to say, two thirds of all young people under 25 are at present working on temporary contracts.

38. This highlights the concentration of temporary work among young people, which in the past two years has increased by 9.6 percentage points. In the second quarter of 1992, temporary work among young people accounted for 73.9 per cent of all work contracts in this group.

2. Principal policies implemented and measures adopted to guarantee employment for any person willing to work and seeking work

Women

39. Act No. 8/80 of 11 March 1980, approving the Workers' Statute, set out, in connection with employment, the principle of non-discrimination contained in article 35.1 of the Constitution. Article 4 of the Statute states that all male and female workers are entitled not to suffer discrimination in securing employment or, once they are employed, on the grounds of sex. Article 17 implicitly forbids the deliberate exclusion of women from promotion and from vocational training. Article 24.2 establishes that a firm's occupational categories and promotion standards shall be in keeping with common rules for workers of either sex. Under article 28 of the Statute, the employer is required "to pay the same wage for equal work ... without any discrimination on grounds of sex". Article 38.2 states that equal opportunity and treatment shall be the basic principles of employment policy and no distinction, exclusion or preference in employment may be established on grounds of sex.

40. Act No. 8/88 of 7 April 1988, on Offences and Penalties in the social sector, penalizes acts by an employer that have a bearing on the prohibition of discrimination. Under article 8, it is a very serious labour offence if the employer "commits acts that are inconsistent with respect for the privacy, and due consideration of the dignity, of workers". This has been taken implicitly to mean that sexual harassment committed by the employer himself or condoned by him is penalized. Under article 28, it is a very serious labour offence "to establish conditions, by advertising or circulating offers of employment or any other means, which constitute gender discrimination in access to employment".

41. Under article 91, the social affairs courts are competent to declare null and void any provisions of collective agreements that are inconsistent with the right to equality: for example, rules stipulating male or female occupational categories inconsistent with article 24 of the Workers' Statute; rules referring to special regulations prohibiting women from being hired for night shifts or establishing different wages for the same work, in breach of article 28 of the Workers' Statute.

42. The Labour Procedure Act (RDL/521/90), for the first time in Spanish labour law, places the burden of proof on the respondent in proceedings in which the claimant alleges discrimination on grounds of sex. Maternity leave has been extended to 16 weeks, the additional period for care (paternal or maternal) of each child is set at three years, and measures have been introduced to foster equal treatment of women in the workplace (Act No. 3/89 of 3 March 1989).

43. The standard of education of the female population of Spain over 16 years of age is lower than that of males. This is not true of women under 30 years of age whose standard of education is similar. There are fewer girls than boys in vocational training (43,379 compared with 56,639), but the major difference is in the occupations selected, since women still prefer branches and studies traditionally chosen by women, although a tendency towards diversification is now starting to appear.

44. To achieve equal opportunity and treatment for women, in connection with the Community Resources Initiative (NOW) the Women's Agency has initiated a programme to coordinate all projects initiated by the local authorities throughout Spain (governments of the Autonomous Communities, municipal authorities and associations). The Women's Agency has also devised an Integrated Plan for Access to Employment in cooperation with the National Employment Institute (INEM) and with local corporations. The Plan covers 22 places in 14 Spanish provinces and employs 334 people; 28,000 explanatory brochures have been distributed.

45. The NOW/INEM/Local Corporations Plan involves five services:

(a) GIRAs (Groups for integration and reintegration in the workforce). This information/guidance service holds one or two-week sessions at which the women who are participating in them identify their interests, skills and weak points, are provided with information on the work environment and on training possibilities and, lastly, draw up their own employment or training plan;

(b) DESCUBRE OTRAS PROFESIONES (Find out about other jobs). This scheme is designed to supplement GIRAs. It is a pre-training service intended to make it easier for unemployed women to become acquainted with conditions in firms and to broaden their work opportunities by an experimental and practical review of four non-traditional and/or innovative areas;

(c) NOVA (Special innovative training action for women). The training included in the Plan is geared exclusively to groups which, either because they form local pockets of female unemployment or because they encounter particular difficulties in obtaining the training that is on general offer, stand in need of a special response, as positive training action. Two groups have been identified: women graduates from Arts Faculties; and women on their own with no one to share family responsibilities;

(d) MABEM (Instruction module for job-seekers). This final-stage project consists in creating continuing counselling and support units for:

- (i) Instruction in the most common techniques used in looking for work (writing applications and curricula vitae, interviews, etc.);
- (ii) Assistance by experts in working out a personalized plan to look for a job;
- (iii) Information areas and technical facilities to carry the job-search plan through guides, interactive videos, directories, subscriptions, etc.;

(e) ENTREPRENEURS. This is also a service which, in this case, has an effect on integrating women in the workforce by helping them to create their own jobs. It consists in creating stable, motivated units, technical assistance, special training and support for business initiatives by women.

Young persons

46. The principal employment measures for the young are found in the Integral Plan for Young Persons, 1989 to 1992. The Plan includes simultaneous action by several Ministries to improve the living conditions of the close on 10 million Spaniards who make up the portion of the population aged 15 to 29.

47. The Ministry of Social Affairs, through organizations such as the Women's Agency and the Young Persons' Institute (INJUVE), adopts various approaches in fostering the employment of young people and, especially, the employment of young women. It supplements the general measures programmed and implemented by the Ministry of Labour and the Ministry of Social Security.

48. The action taken ranges from jobs for the young at the local level, by means of support for municipal youth employment schemes or the use of local employment agencies, to information and vocational training for young women in jobs in which they are not sufficiently represented. It includes quite broad measures, such as subsidies to bodies and associations which arrange activities that help to promote jobs for young people, or more specific action such as aid for young professionals in the performing arts.

49. In addition, the Ministry of Social Affairs cooperates, through its organizations, in other employment-related action: it participates in the agreements between the National Employment Institute and the Public Administrations, it reports on projects to establish youth cooperatives and it takes an active part in the European Transition Programme (PETRA).

50. Attention should be drawn to the following:

(a) The agreement reached between the Spanish Federation of Municipalities and Provinces (FEMP) and INJUVE has, in only two years, led to cooperation agreements with 14 municipalities to support Municipal Youth Employment Plans, for the purpose of setting up local pilot programmes and conducting studies into the needs of the young;

(b) Again, under the FEMP-INJUVE agreement, 11 local youth employment officers were engaged for 8 districts, as the embryo of a future network of "street officers" to assist young job-seekers;

(c) Subsidies for 94 programmes carried out by 48 young persons' associations or bodies providing services for the young. These programmes included activities to make it easier for young men and women to find jobs, to promote self-employment or businesses run by young people, to publicize the trade union rights of young workers or to foster equality of opportunity. These subsidized activities are reckoned to have benefited about 18,000 young people;

(d) Job promotion teams for women have operated in 14 provinces, encouraging the hiring of young women in occupations in which they are under-represented. To encourage the integration of women in such occupations, 56 vocational training courses have been provided in 13 provinces in such fields as the graphic arts, gardening, woodwork, etc. The programme has responded to the needs of almost 1,000 women, a quarter of whom were under 30 years of age;

(e) The European Transition Programme (PETRA) includes participation by the National Coordination Unit for the Programme, whose secretariat function is performed by the Migration Department of the Ministry of Social Affairs. A study has also been conducted to look into the training needs of technical and practical instructors at the Polytechnic University of Madrid.

Disabled persons

51. Persons with disabilities experience difficulties in obtaining jobs. These difficulties lie, first, in lower productivity and a more restricted field of employment, and second, in social stereotyping about the inability of such people to work, which is the result of ignorance, prejudice and, in some cases, excessively protective attitudes.

52. The adoption of the Social Integration of Disabled Persons Act (No. 13/1982 of 7 April 1982) establishes a suitable legislative framework for protecting and regulating the right of disabled persons to employment and is intended to make it an effective right.

53. The guiding principle behind the Act is to ensure normal integration of such persons in the workforce, wherever the disability so permits, and priority is therefore given to ordinary employment, failing which other kinds of suitable employment are envisaged for them.

54. For example, article 37 (title VII), on integration in the workforce, states:

> "The prime purpose of employment policy for disabled persons is to integrate them in the ordinary system of employment or, failing this, to incorporate them in the production system through special forms of protected work ...".

55. A number of steps have been taken to implement this legislation.

56. Establishment of quotas for disabled persons. A compulsory quota of at least 2 per cent of the number of employees was set aside for disabled persons in public and private undertakings with more than 50 permanent workers. Subsequently, Act No. 23/1988 of 28 July 1988, amending the Civil Service Reform Act, increased the quota in the public sector to 3 per cent of existing vacancies, provided the requirements deemed compulsory for adapting them for disabled persons are met.

57. Measures to eliminate discrimination against disabled persons. In article 38, paragraphs 2 and 3, the Social Integration of Disabled Persons Act safeguards the principle of non-discrimination in regard to pay and hours and conditions of work for disabled persons in both the public and private sectors.

58. Measures for the reinstatement of workers who have been affected by a disability on completion of the period of recovery. Royal Decree No. 1451/83 of 11 May 1983, which regulates selective employment and sets out measures to provide jobs for disabled persons, stipulates that, in the case of workers with a disability, it is compulsory for firms to re-engage them in their previous posts once the period of recovery has ended. For this purpose, it sets out the following provisions:

(a) The regulations are supplemented by incentives for firms which reinstate workers in their last post; they involve a 50 per cent reduction in the employer's social security contribution for a period of two years;

(b) Similarly, priority is given to occupational rehabilitation programmes in cases of industrial accidents or occupational diseases, with comprehensive care services for persons striving for full rehabilitation and reintegration in the workforce.

59. Measures to promote the employment of disabled persons. The Social Integration of Disabled Persons Act sets out in article 38, paragraph 4, a range of measures by the public authorities to promote employment, measures later developed in further legislation, more particularly Royal Decree No. 1451/1983 of 11 May 1983. Within this legislative framework, the following incentives to promote ordinary employment for this group have been introduced in Spain:

(a) Incentives to hire disabled persons on an indefinite basis: the public authorities provide firms, regardless of their form in law, and work cooperatives with a number of incentives when they conclude contracts of employment with disabled persons;

(b) Incentives for self-employment: the programmes to promote self-employment, regulated by the Order of the Ministry of Labour and Social Security of 21 February 1986 and by annual ministerial orders regulating applications for official assistance to disabled persons for each financial year, are intended to promote and to help finance projects to turn unemployed disabled persons into self-employed workers;

(c) Incentives to foster training by means of apprenticeship contracts, a method that is part of the policy of supporting job creation and encouraging the integration of young persons in the workforce. Apprenticeship contracts, regulated by Royal Decree No. 18/1993 of 3 December 1993, on Urgent Measures to Promote Employment, are intended to ensure the acquisition of the requisite practical skills to do a job properly. They establish a period for theoretical training and another for practical work. The contracts may not be for less than six months or more than three years. To encourage the employment of young disabled persons, this legislation sets out a number of incentives to hire them, such as exemptions from social security contributions for the risks covered by this kind of contract and subsidies to adapt workstations and eliminate obstacles in buildings, as well as incentives to convert apprenticeship contracts into full-time permanent contracts.

60. The Social Integration of Disabled Persons Act (No. 13/1982 of 17 April 1982) sets out in article 41 two kinds of protected employment for disabled persons who, on account of the nature or the consequences of their disability, are temporarily or permanently unable to perform a job under the usual conditions: the Special Employment Centres and the Occupational Centres. The decision to help a disabled person to adapt to a specific type of job lies with multidisciplinary assessment teams, which have to determine the possibilities for genuine integration and the disabled person's work capacity:

(a) The purpose of the Special Employment Centres, under article 42 of the Act, is to provide productive work, with regular participation in the market, and to ensure paid employment and personal and social adaptation services for disabled workers. The Centres are manned entirely by workers in this category;

(b) Under article 53 of the Act, Occupational Centres are established to guarantee work and personal and social adaptation services for seriously disabled persons. This is regarded as a suitable means of achieving their social integration. The Occupational Centres provide the following services: comprehensive personal care; occupational therapy; personal and social adaptation services; leisure and free-time activities; medical and psycho-social care; and home services, where appropriate.

61. Another kind of measure adopted in Spain to encourage the integration of disabled persons in the workforce is to be found in the occupational rehabilitation programmes for the disabled. These are regulated by article 32

of the Act, which stipulates that: "Disabled persons of working age shall be entitled to social security occupational rehabilitation services under the terms set out in this Act".

Refugees and/or asylees

62. Act No. 5/1984 of 26 March 1984, regulating the right of asylum and refugee status, states in connection with employment:

Article 13: "The grant of asylee status entails authorization to live in Spain, authorization to engage in an occupation, a profession or business ...";

Article 22.3: "Anyone granted refuge in Spain, if he wishes to engage in gainful employment, whether or not on his own account, may be issued with the requisite residence and work permits".

63. Furthermore, the Workers' Statute provides for non-discrimination in labour relations, as stipulated in article 17:

> "Regulations, clauses in collective agreements, individual contracts and unilateral decisions by the employer that entail unfavourable or adverse discrimination in employment, and also in remuneration, hours of work and other conditions, on grounds of sex, origin, marital status, race, social status, religious ideas ... shall be deemed null and void".

The Workers' Statute establishes a system of penalties and a procedure for penalizing employers who act in breach of these rules (art. 17).

64. However, despite the fact that a foreign asylee and/or refugee worker is placed formally on an equal footing with a Spanish worker, the State is aware of the greater difficulty such persons encounter in finding employment. Accordingly, it has designed and started to implement a number of programmes to help their integration in the workforce.

65. The Guidance and Assistance Programme for Integration in Society and the Workforce provides the following services:

(a) Training activities in connection with business and employment in Spain;

(b) Financial assistance in setting up an own-account activity.

66. The goal of the Educational and Vocational Training Assistance Programme is to provide technical and vocational training to refugees and/or asylees who stand in need of it and to support the education of the children of refugees and asylees. It provides the following services:

(a) Financial assistance for studies at the various levels of education;

(b) Fellowships;

(c) Grants to cover the student's costs of maintenance, accommodation and basic needs.

67. Each year, calls are issued for subsidies for self-employment and vocational training projects, including those submitted by non-profit NGOs for people in this group.

Ethnic minorities

68. In addition to the general employment development programmes that have been established for the rest of the population, the authorities have adopted other specific measures, organized, through special legislation, which constitute affirmative action on a temporary basis and recognize the situation of social inequality of the Gypsy minority.

69. Some of these measures are included in the Gypsy Development Plan, and since 1989 there has been a specific budgetary allotment in the General State Budget for the financing of comprehensive action projects for Gypsy communities in difficulty. In the framework of these comprehensive projects, activities are conducted in the following areas:

(a) Information on job training availability, rights and duties, and social security;

(b) Vocational training, with on-the-job training programmes aimed at developing the skills of unemployed, preferably young, Gypsy men and women;

(c) Promoting entry into different types of employment by encouraging the cooperatives and setting-up of small businesses.

70. These measures are being carried out in cooperation with the Autonomous Communities, which co-finance the projects, and the Ministry of Labour and Social Security through the National Employment Institute, which also cooperates in the financing of the vocational training programmes.

71. The Ministry of Social Affairs, through the Call for Individual Income Tax Subsidies, subsidizes integration programmes for financing training and employment courses, information and legal and tax advice aimed at regularizing certain types of work, principally street vending.

3. Equal pay for work of equal value

Working conditions

72. Article 28 of the Workers' Statute (Act No. 8/89, 11 March 1989) stipulates: "Employers shall be required to pay the same wage for the performance of equal work, as regards both the basic wage and bonuses." One of the aims of the Second Equal Opportunity Plan for Women (1993-1995) is to amend this article, by replacing the term "equal work" by "work of equal

value", thereby using the terminology of the Community Directives. This amendment has been provided for in the Workers' Statute Reform Bill, which is currently pending.

73. In global terms, the remuneration received by women for their work is nearly 20 per cent lower than that of men. Wage differences between men and women increase as they get older, since men have greater access to jobs carrying higher responsibility and remuneration throughout their working lives.

74. The Women's Agency is carrying out a series of measures designed to increase women's access to positions of responsibility:

(a) Generally, by destroying myths such as the myth that women have a high rate of absenteeism from work, encouraging self-esteem and training women in the enterprise culture;

(b) Specifically regarding the civil service, a Commission has been established to conduct the following activities:

(i) Sociological study on administrative careers for women, in order to identify the relevant opportunities and obstacles;

(ii) Women in the State administration. Use of secondary information. A diagnostic study is being made of the current situation of women in the State administration, dealing with observed trends in the number of women degree-holders, and the representation of women in State bodies and ministerial departments and at various levels;

(iii) Seminar on "The executive function and equal opportunities" aimed at actively promoting access by women to positions of responsibility and increasing the number of women executives, both in the civil service and in public and private undertakings;

(iv) Statistical modules for executives. Two practical courses were held in order to incorporate practical cases into the training programme and the courses offered by the Administration;

(v) Ibero-American conference on public equal-opportunity policies, at which it was agreed to include the gender perspective in global and sectoral public policies, in research into women's actual situation and in the establishment of a network for the exchange of experience among Latin American countries;

(vi) Data bank containing curricula vitae of senior and junior women executives. The purpose of this database is to disseminate information with the aim of increasing the number of women in positions of responsibility, in both the public administration and the private business sector;

(vii) Agreement with the National Institute for Industry, which will be used to increase the number of women executives in public undertakings.

B. Article 10

1. Family and children: significance of the word "family" in Spanish society

75. This question is dealt with in the initial report submitted by Spain in 1993 to the Committee on the Rights of the Child concerning the implementation of the Convention on the Rights of the child (CRC/C/8/Add.6, sect. V, Family Environment or Other Form of Guardianship, part A).

2. Age at which majority is attained and its various effects

76. Article 12 of the Spanish Constitution stipulates that "Spaniards attain their majority at the age of 18". Article 315 of the Civil Code states that majority begins at the age of 18. Majority for criminal purposes begins at 16 years of age.

77. Organization Act No. 4/1992 of 5 June 1992, in accordance with the "Beijing Rules" (United Nations Standard Minimum Rules for the Administration of Juvenile Justice), establishes regulations concerning, criminal offences committed by minors between 12 and 16 years of age. The Workers' Statute sets the age of majority for employment purposes at 16 years.

3. Forms of assistance to the family

78. Article 32 of the Spanish Constitution states that "Men and women are entitled to enter into marriage on a basis of full legal equality".

Protection and assistance measures for families

79. These measures are the following:

(a) Benefits for families under the social security system: family benefit for dependent children, consisting of one allowance for each child under 18 years of age or incapacitated adult child dependent on the beneficiary, for families not exceeding a certain income level;

(b) Social protection for large families: recognition of large-family status confers assistance such as reductions in bus and train fares, assistance with special education, advantages in obtaining officially-protected housing, and exemption from university matriculation fees. Recognition of this status is also granted when the parents are not married, and for single fathers or mothers and their children.

(c) Tax benefits

80. Act No. 18/1991 containing amendments to the Individual Income Tax introduced tax protection measures for families:

(a) Joint taxation option, for which an incentive is created through the introduction of a special tariff with lower rates;

(b) Changes have been made in the tax deductions according to the individual's family circumstances, in order to provide families with greater protection:

- (i) Extension of the dependent child deduction up to the age of 30, in view of the fact that young people are joining the workforce at a later age, with no age-limit for disabled children;
- (ii) Increase in the deduction for parents and grandparents over 75 years of age;
- (iii) Deduction for child-care expenses for children under 3 years of age when the parents work outside the home and their income does not exceed a certain level;

(c) On 11 November 1994, the Government decided to lower to three the number of children required for the granting of "large family" status.

System for the protection of motherhood

81. Act No. 3/1989 of 3 March 1989, extending maternity leave to 16 weeks and establishing measures to promote equal treatment for working women, stipulates the following:

> "Interruption of work for childbirth shall be 16 continuous weeks in duration, extendable to 18 weeks for a multiple birth. The period of interruption shall be distributed at the choice of the woman concerned except that six weeks of leave shall be taken immediately following the birth; the father may use those six weeks for the care of the child in the event of the mother's death."

82. Notwithstanding the above, if both the mother and father are working, at the beginning of the maternity leave period the mother may choose to have the father use up to four of the last weeks of leave, provided they are uninterrupted and are taken at the end of the leave period, unless the mother's return to work at that point would be dangerous for her health.

83. In the event of adoption, if the adopted child is under nine months of age, the interruption of work will be for a maximum period of eight weeks from the issuing of the judicial adoption order. If the adopted child is under five years and over nine months of age, the interruption will be for a maximum period of six weeks. If both the father and mother work, only one of them may exercise this right.

84. Similarly, working mothers who are breast-feeding children under nine months of age are entitled to one hour's absence from work, which they may divide into two portions. If she wishes, the women may replace this right

by a reduction of the normal working day by one half-hour for the same purpose. This leave may be taken by either the mother or the father without distinction if both are working.

85. In addition, workers are entitled to a period of leave not exceeding three years in order to care for each child, whether natural or adopted, as from the child's date of birth. Each successive child will create entitlement to a further leave period which will end the previous period if applicable. When both the father and mother work, only one of them may exercise this right.

86. For one year, as from the beginning of each leave period, the worker will have the right to have his job held for him and to have the period in question count for seniority purposes. From the end of the one-year period until the end of the leave period, the rules governing voluntary leave will apply, in the absence of a collective or individual agreement to the contrary.

87. The financial benefits paid for the duration of the leave are equivalent to those paid for temporary incapacity for work, and social security provides, free of charge, medical care during the prenatal, delivery and postnatal periods and care for the newborn infant.

88. A significant step in connection with these benefits, in addition to a two-week increase in the duration of leave and the right to have the job held during the first year of leave, is the extension of this leave to parents adopting a child under five years of age. This indicates that adoption is being placed on the same footing as natural parenthood for the purposes of these leave periods, the aim being to facilitate contact between the child and his parents.

89. The last reform also introduced the possibility for the father to take up to four of the last weeks of leave in order to care for the newborn child.

Measures to combat the economic exploitation of children

90. As stated earlier, the Workers' Statute prohibits the employment of children under 16 years of age. Workers under 18 years of age cannot perform night work or any activities or jobs which the Government, on the proposal of the Ministry of Labour, following consultation with the most representative trade union organizations, declares to be unhealthy, arduous, harmful or dangerous, for both their health and their vocational and human development. Persons under 18 years of age are also prohibited from working overtime.

91. There are in Spain no groups of children that do not enjoy social protection.

Protection of orphans

92. Article 222 of the Civil Code states that unemancipated minors who are not under parental authority shall be subject to guardianship. Children who have been abandoned will be wards of the State. Abandonment is considered to be the situation produced when the duties of protection established by law for

the care of minors are not performed or inadequately performed or are impossible to perform, and minors are deprived of the necessary moral or material assistance.

93. Since the Civil Code was amended in 1987 to give the State the possibility of assuming guardianship of an abandoned minor, the child protection system has improved considerably.

Legislative reforms

94. In connection with the report submitted by Spain in 1981, and in addition to the legislation already cited, mention should be made of the following amendments to the Civil Code:

(a) Act No. 11/1981 of 13 May 1981 amending filiation, parental authority and the financial regime governing marriage, eliminated the old distinction between legitimate and illegitimate filiation and placed all children on an equal footing before the law. Parental authority was defined as a set of duties and obligations for the parents, who hold and exercise it jointly and share it with respect to the children, and no longer as a series of rights of the father over the children, as had previously been the case. The Act introduced paternity investigations;

(b) Act No. 30/1981 of 7 July 1981, amending the matrimonial regime, and rules for separation and divorce;

(c) Act No. 13/1983 of 24 October 1983 relating to guardianship;

(d) Act No. 21/87 of 11 November 1987, amending certain articles relating to adoption in the Civil Code and the Civil Procedure Act;

(e) Act No. 18/1990 of 17 December 1990 relating to nationality;

(f) Act No. 11/90 of 15 October 1990, containing amendments to the Civil Code in implementation of the principle of non-discrimination on grounds of sex, relating to the following articles:

(i) Article 9, eliminating the preference shown for the husband in the legislation relating to personal status and stipulating that the effects of the marriage shall be governed by the ordinary legislation relating to personal status;

(ii) Article 14, stating that marriage does not change the civil residence and setting an objective criterion for determining the children's civil residence;

(iii) Article 93, stating that the judge who orders separation, annulment or divorce shall also determine maintenance for children who have attained their majority and are entitled to it;

(iv) Article 159, stating that children's interest shall prevail over the interest of either of the parents when the judge comes to decide which of them shall have custody of minor children; if the children have sufficient judgement or are over 12 years of age, they shall be heard before this decision is taken;

(v) Article 1267, which contained a requirement that the age, sex and status of a person should be taken into account in defining the offence of intimidation. The latest amendment has eliminated the reference to sex.

95. A series of amendments have also been made to the Penal Code including the following:

(a) Organization Act No. 5/88 of 9 June 1988, relating to exhibitionism and sexual provocation in relation to minors;

(b) Organization Act No. 1/88 of 24 March 1988, relating to illegal drug-trafficking;

(c) Organization Act No. 8/1992 of 23 December 1992, amending the Penal Code and the Criminal Procedure Act in so far as they relate to drug-trafficking;

(d) Organization Act No. 3/1989 of 21 June 1989, introducing a series of new offences: rape of children, violence within the family and use of children for begging.

C. Article 11

1. Criteria for determining the poverty threshold

96. Bearing in mind the definition provided by the European Union and taking as the "poverty threshold" 50 per cent of the average income of each member country, Spain is in third place among the 12 member States as regards the total number of households and individuals considered to be poor.

97. According to information from a recent survey of family budgets conducted by the National Institute of Statistics (INE), 19.7 per cent - one in five - of Spanish households (family units) are living in poverty, a percentage which rises to 29 per cent - one in three - if those at the "poverty threshold" are included.

98. To measure poverty, the INE takes as its reference "half the average expenditure", which in Spain is currently (1993) about 852,640 pesetas per year, and considers under 40 per cent (i.e. 341,056 pesetas) to be very poor; under 50 per cent is considered poor and under 60 per cent is considered, if not poor, precarious.

99. But however poverty is measured, what is certain is that there is a persistent figure of about 20 per cent for structurally poor households, a situation which shifts constantly as some leave and others fall into situations of poverty.

2. Measures adopted to give effect to the right to housing

100. The Spanish projects prepared in the framework of the European Anti-Poverty Programmes, form an overall standpoint and using inter-agency coordination, involve activities relating to urban planning and housing, which basically consist of reclamation of land, modification of the environment, the full development of the area covered by the project and the construction of sufficient housing for the affected population of the district. It should be pointed out that unemployed local people are used for urban renewal operations.

101. In the most significant case, relating to the Gypsy community, the Ministry of Social Affairs, using credit from the Gypsy Development Programme, co-finances jointly with the Autonomous Communities comprehensive action projects which have a very direct influence on housing. The activities in the priority slum districts and plans for eliminating shanty towns and rehousing their inhabitants are of great importance. They comprise specific activities aimed at more appropriate use of housing and community services, upgrading of housing and social follow-up services after rehousing.

D. Article 13

1. The right to education

(a) Legal recognition and effective implementation of the right to education

102. The Spanish Constitution of 1978 recognizes the right to education as one of the "fundamental rights", and stipulates in article 27 that "All persons have the right to education". It also establishes rules for the effective implementation of the right to education. Basic education is established as compulsory and free. The public authorities are made responsible for guaranteeing this right by providing a network of establishments to meet the educational requirements of the population.

103. The Constitution also refers to "freedom of instruction", recognizing "the freedom of individuals and legal entities to set up teaching establishments ..., provided they are compatible with respect for constitutional principles". It explicitly admits private educational establishments as part of the network of facilities required for the real and effective implementation of the right to education.

104. Thus the Constitution lays down the main guidelines which serve as a basis for all subsequent educational legislation in the form of individual acts governing the different levels of the educational system.

105. Organization Act No. 1/1983, of 25 August 1983 on university reform (LRU) gives expression to the right of all Spaniards to higher education, making the university system responsible for providing the appropriate public service. While the right to study in any university is recognized, a parliamentary act lays down conditions of entry to universities.

106. In addition, provision is made for the general programming of higher education, for which the Council of Universities 1/ is responsible, to adapt educational requirements to those of Spain's economy and industry. The freedom to set up private educational establishments, set out in the Constitution, also applies under the LRU to higher education.

107. The right to non-university education is spelt out in Organization Act No. 8/1985 of 3 July 1985 establishing regulations concerning the right to education (LODE). This recognizes everyone's right to basic education such as to allow the development of the personality and the performance of activity useful to society. The Act confirms the compulsory and free nature of basic education expressed in the Constitution. It also states that access to other levels of education must be equally free of any discrimination on financial, social or residential grounds.

108. Within the framework of the Constitution, the Act allows for different types of establishments according to their juridical status and the way they are funded.

109. As far as their status is concerned, establishments may be either public or private. They are public if they are governed by a public authority and private if governed by a private natural or artificial person.

110. Private establishments need to be approved by the educational authorities before they can start their activities, after which they enjoy full academic capacity. Approval will be granted provided that the establishment meets the minimum general requirements established for providing instruction of a satisfactory standard at the different levels of the educational system.

111. According to the way they are financed, establishments may be either public or private, and if private, either subject to a grant agreement or not.

112. Public establishments are publicly-run schools financed from public funds.

113. Private grant-aided establishments are privately-run schools paid for entirely or partly from public funds. In order to finance private non-university establishments from public funds, a system of grant agreements has been established under the LODE. The basic rules governing such agreements are set out in Royal Decree No. 2377/1985 of 18 December 1985.

114. Through the grant system, the education authorities help to finance private schools and thereby enable them to offer free education at whatever levels are agreed. Educational grants thus become a legal means of making the right to free education compatible with the freedom to set up private schools and the freedom of families to choose their children's schools, since, thanks to public funding, private schools are able to offer free education, thus ensuring that the choice of school by families is not determined by financial considerations.

115. As a means of furthering the right of all citizens to education, preference is given in the agreements to schools which either meet specific schooling requirements, or cater for children in unfavourable socio-economic

circumstances, or are engaged in educational experiments of interest to the educational system in general. Preference will also be given to schools run under a cooperative system.

116. Most agreements concluded concern the various levels of compulsory education. The system of educational grants may also be extended, however, to non-compulsory education in selected establishments under special conditions (such as the need for schooling in a particular area, etc.).

117. In order to be admitted to the grant system, private schools have to meet minimum requirements laid down for educational establishments in general. In addition, private grant-aided schools must, under the LODE, set up appropriate governing bodies to coordinate the participation of the different members of the educational community in the management and administration of the establishment.

118. The grant agreement has to be approved by the education authority and signed by one of its representatives and by the person responsible for the private school. The grant is valid for four years (with the possibility of successive renewals) and may apply to several schools under the same management.

119. Non-grant-aided private schools are privately-run schools paid for entirely from private funds.

(b) Distribution of responsibilities in the Spanish educational system

120. The Spanish Constitution of 1978 has divided the Spanish State administratively into 17 Autonomous Communities. This "State of the Autonomies" established by the Constitution implies the transition from a centralized form of government to a decentralized model, in which the public authorities of the various Autonomous Communities assume certain legislative and executive responsibilities of their own in different areas of the legal system. In education, responsibilities are divided between the State and the Autonomous Communities.

121. The educational responsibilities pertaining exclusively to the State, which are set out in the Constitution, include the establishment of rules governing basic elements of the system, as required to safeguard its uniformity and essential unity. Some of these basic elements worth mentioning are:

(a) Basic standards, pursuant to article 27 of the Constitution, to ensure fulfilment of the public authorities' educational obligations;

(b) Conditions for obtaining, issuing and approving academic and professional qualifications which are valid throughout Spanish territory;

(c) The general organization of the educational system (duration of compulsory schooling; regulation of levels, grades, specialization, cycles, teaching procedures, and the number of courses appropriate in each case; requirements for transfer from one level to another; minimum requirements for schools with regard to the academic qualifications of teaching staff at each level of education, the pupil/teacher ratio, amenities, equipment, etc.; general educational programming; establishment of minimum instruction, etc.);

(d) A Senior Inspectorate to ensure fulfilment of the public authorities' obligations;

(e) The policy of educational assistance charged to the general State budget;

(f) International educational cooperation.

122. The Autonomous Communities, on the other hand, are responsible for instituting non-basic rules of the educational system in conformity with the basic standards laid down by the State.

123. By now, some responsibilities for education have been transferred to all the Autonomous Communities, although so far only seven of them have taken them on in practice: Andalusia, Canary Islands, Catalonia, Galicia, Navarre, the Basque Region and Valencia. In the other 10, the Ministry of Education (MEC) continues to be the authority responsible until the powers are taken over by the autonomous governments. In educational terms, these 10 Autonomous Communities make up what is referred to as the "MEC area".

2. Structure of the education system

124. The non-university levels of the Spanish education system are currently undergoing a process of general reform following the promulgation in 1990 of the General organization of the education system Act (No. 1/1990 of 3 October 1990), known as the LOGSE. Since the academic year 1992/93, this Act has affected the structure of the different stages, syllabuses and curricula, the organization of teaching staff, establishments, etc. The previous general reform of the system had been carried out in 1970 under the General Education Act (No. 14/1970) of 4 August 1970 (LGE). Since then, the 1983 University Reform Act (LRU) for higher education, and the 1985 LODE and 1990 LOGSE for non-university education have been used to adapt the education system to the new legal framework arising from the 1978 Constitution and to present-day social and economic conditions in Spain.

125. Annex I gives a table showing the new structures of the education system according to the LGE and the LOGSE, which are described below:

(a) The education system established by the General Education Act (1970) for non-university education

126. The main objective of the LGE was to extend the benefits of education to the whole of the Spanish population, supplementing general education with vocational training to prepare the individual for work. It aimed to offer equal educational opportunities, subject only to the limitations imposed by academic ability. It thus introduced basic general education as a period of elementary, common, compulsory and free education up to the age of 14, which provided an essential basis for equal opportunities in education.

127. The structure established by the LGE, which will continue to apply at some levels during the gradual introduction of the LOGSE system, included four educational levels: preschool education, basic general education, unified polyvalent secondary education ("Bachillerato") and university education. The system also included vocational training, which, together with the Bachillerato, is part of what are known in Spain as the "Enseñanzas Medias" (intermediate education).

128. For the first time, the LGE included preschool education as one of the levels of the education system. The level is not compulsory and is divided into two stages: nursery school, for children aged two and three, and kindergarten for four and five-year-olds.

129. Basic general education (EGB) is a stage which is common, compulsory and free for all children aged between 6 and 14. It consists of eight courses, divided into three cycles - initial, intermediate and higher. At the end of EGB, those who have successfully fulfilled its objectives obtain a School Certificate (Graduado Escolar), which enables them to go on to either vocational training or, more commonly, the Bachillerato. Students who do not attain the objectives are given an Education Certificate (Certificado de Escolaridad), which allows access only to vocational training.

130. Intermediate education includes the unified polyvalent secondary education (Bachillerato or BUP) and the pre-university course (COU), or alternatively vocational training (FP), divided into two grades, FP.I and FP.II. Intermediate education is not compulsory, except for FP.I, which is considered compulsory and free for all students not taking the Bachillerato course after EGB.

131. The education system established by the LGE offers other types of courses, including art, languages, special education and permanent adult education.

(b) Education system established under the 1990 General Organization of the Education System Act (LOGSE) for non-university education

132. In accordance with the central policy of improving the quality of education, the new structure of the education system which began to be introduced in Spain when the LOGSE was approved in 1990 entails a reorganization of non-university education, with the aim of establishing common, compulsory and free education up to the age of 16. The new structure includes general education (divided into preschool education, primary education, secondary education and vocational training) and specialized education (art and languages).

(i) General education

133. Preschool education covers the period up to the age of six, divided into two cycles, the first up to the age of three and the second from three to six. Although it is not compulsory, the public authorities guarantee a sufficient supply of free places. It began to be introduced in the school year 1991/92.

134. Primary education, which is compulsory and free, comprises six years of teaching (from the ages of 6 to 11), divided into three cycles of two years each. The first cycle started in the school year 1992/93.

135. Secondary education is divided into compulsory secondary education (ages 12 to 16) and post-compulsory secondary education (ages 16 to 18), which includes the Bachillerato and intermediate vocational training.

136. Compulsory secondary education (ESO) includes two cycles of two years each. At the end of this level, students who have achieved all the required objectives are awarded a certificate of secondary education, which allows them entry to the Bachillerato course or to intermediate vocational training. The first ESO cycle is due to be introduced in the academic year 1995/96, although some schools have already introduced it.

137. The Bachillerato course is two years' duration and offers students the following options: art, natural sciences and health, humanities and social sciences, and technology. Students obtaining a satisfactory assessment in all subjects in any one of these options are awarded a Bachiller certificate, which allows them access either to higher vocational training or to university. Access to the latter is conditional upon passing an entrance test.

138. The objective of vocational training, as established by the LOGSE, is to prepare students for work in a given field. There are two kinds: basic vocational training and specific vocational training.

139. Basic vocational training is a form of job-oriented basic training which is included in the compulsory secondary education and Bachillerato curriculum.

140. Specific vocational training consists of modules of varying duration, covering specific areas of theoretical and practical knowledge. It consists of two training cycles: intermediate vocational training and advanced vocational training. Successful completion of secondary education is a condition of entry to the intermediate grade. If the cycle is successfully completed, a student obtains a technician's diploma. A Bachiller certificate is required for entrance to the advanced grade, although subject to certain supplementary conditions students can also gain entrance from the intermediate grade. Successful completion of the cycle leads to qualification as a Senior Technician. It is also possible to be admitted to the specific vocational training course without the above requirements by passing a specific entrance test.

(ii) Specialized education

141. The object of the art course is to provide basic training in art to students in general and, so the LOGSE has incorporated the course in the curricula of both primary and secondary education. A further aim, however, is to provide professional qualifications in this field; the course accordingly allows for the possibility of greater specialization, facilitating access either to the art or music options in the Bachillerato or to higher studies in conjunction with other subjects.

142. Under the new system, the idea is to coordinate ordinary studies and art studies, making them compatible and facilitating simultaneous dedication to both by students, while introducing greater flexibility of access and interconnection between courses, designing the advanced levels to make them equivalent to university studies, and making art studies more professionally oriented.

143. The art options offered are: music and dancing, dramatic art, and plastic arts and design. Some of these special options are organized into three training cycles: elementary, intermediate and advanced.

144. Although primary and secondary education curricula include the teaching of foreign languages, the LOGSE establishes languages as a special branch of education. They are taught in official language schools, entrance requirements being either completion of the first ESO cycle or possession of the School Certificate, the Education Certificate or a primary education certificate. These schools will concentrate particularly on the study of European languages and official State languages.

(iii) Special education

145. The LOGSE considers special education as a set of resources available to the education system to provide an adequate response to any special educational needs among certain students, the general aim being to integrate them in ordinary schools.

146. Special education will be referred to more specifically in section 4 on educational care given to groups of persons with special educational needs.

(iv) Permanent adult education and non-university distance education

147. The LOGSE created a new legal framework for adult education, with the aim of basing it on the principle of permanent education. The idea is to provide post-compulsory education extended and adapted to all social groups and all ages, giving priority to persons with deficiencies in basic education or having difficulties entering the labour market.

148. Two types of teaching are offered: classroom and distance, both based on independent learning. The system also includes a network of institutions dependent either on the public authorities or on non-profit private organizations. Lastly, procedures are provided whereby adults may access the range of educational levels and options, either to obtain qualifications directly or to obtain access to specialized education.

149. According to the LOGSE, adequate distance education facilities will be provided as a means of guaranteeing the right to education of those who are unable to attend courses in an educational establishment on a regular basis.

150. Distance education offers the same courses as the education system, as well as preparatory courses for adults over 18 wishing to pass examinations to obtain their certificate of secondary education, and for adults over the age of 23 wishing to obtain the Bachiller diploma or vocational training certificates.

151. The new Centre for the Introduction and Development of Distance Education, which will be offering distance education for all LOGSE levels, has replaced the former INBAD and CENEBAD.

(c) Higher education

152. Higher education covers all post-secondary education. It includes all courses given at universities, as well as other courses which are officially considered equivalent to university courses but are not included in them, and other post-secondary education recognized by the MEC leading to a qualification not considered equivalent to any issued under the general system.

153. According to the LGE, university education is given in university departments, institutes, schools and colleges. Universities enjoy their own juridical and patrimonial personality. Later, the 1978 Constitution referred specifically to the universities' independence. Since then, the University Reform Act (LRU) has fulfilled a double objective: on the one hand, it implements the above-mentioned constitutional principle regarding higher education and allocates responsibilities for university education between the State, the Autonomous Communities and the universities themselves; on the other hand, it has introduced reforms in the organization and functioning of the university system in order to adapt it to the processes of political democratization and economic modernization under way in Spain.

154. There are three cycles of education at the university level. The first cycle, which covers three academic years, leads to a diploma in technical engineering or technical architecture. The second cycle, which can last from four to six years, leads to a degree (Licenciado) in advanced engineering or architecture. Lastly, the third cycle leads to a doctorate, after completing research training courses; it lasts on average about two years and requires the submission of an original work of scientific research in the form of a doctoral thesis.

(i) University entrance

155. The conditions of entry to university are regulated by parliamentary act. Selection procedures for admission to universities are set by the Government, in consultation with the Council of the Universities. Admission to individual universities and to the various cycles of higher education depends on the capacity of the receiving establishments, which follow criteria laid down by the Council.

156. In order to ensure that no one is excluded from university studies for financial reasons, the State, the Autonomous Communities and the universities operate a system of scholarships and grants for students.

157. Admission to faculties, advanced technical schools and university colleges generally requires a satisfactory assessment in the pre-university course (COU) and passing the Aptitude Tests for Admission to University (PAAUs). These arrangements will continue to apply until the present Bachillerato (BUP) is superseded.

158. There are a number of other academic and professional qualifications which allow entry to university, such as Bachillerato certificates issued prior to the present educational system, intermediate technical qualifications, university diplomas and degrees, and study diplomas equivalent to university standard.

159. Under special legislation, individuals over the age of 25 may gain admittance to university if they pass examinations which are held each year in every university district.

160. With the new education system introduced under the LOGSE, the old COU pre-university course has been abolished, although an entrance test has been maintained, which, alongside the qualifications obtained in the Bachillerato, will provide an assessment of the academic maturity of students and of the knowledge they have acquired. The university entrance examinations established under Act No. 30/1974 of 24 July 1974 placed more emphasis on assessing the maturity of students. After constant modifications, however, due essentially to the need to adapt the tests to the changing programmes of the pre-university course (COU) and the need to adjust entry conditions to the growing demand for university places, there has been a growing tendency for examinations to concentrate on specific knowledge which can be judged objectively as appropriate preparation for specialized university studies.

(ii) Distance university education

161. This is provided by the National Distance Education University (UNED), which is public and under the responsibility of the State. The main purpose of UNED is to provide university education to any person who, though qualified to undertake advanced studies, is unable to attend courses on a regular basis for reasons of work, place of residence, etc. Communications between teachers and students are organized on the basis of personal consultations or tutorial guidance. UNED also runs direct-access courses for students over the age of 25 and distance open-education programmes. These courses lead to a certificate, which is not, however, academically recognized.

162. No previous qualification is required for admission to these courses.

3. Scope of the right to education: general information

(a) Literacy of the Spanish population

163. During the last quarter of 1993 the illiteracy rate among the adult population (aged 16 and over) in Spain was 4.69 per cent. It was particularly high among the population aged 55 and over. By contrast, for young persons between the ages of 16 and 19, the rate was 0.48 per cent. By gender, it is women who have the highest rates. Of the total illiterate population, 71 per cent were women. By age group, gender differences are especially significant in the population aged 55 and over, while the younger the population, the lesser the differences. These data are shown in table 1.

Table 1

Illiterate and uneducated population aged 16 and over, 1993

Age	Illiteracy			Uneducated population		
	Number		Rate*	Number		Rate*
	Total	% Women		Total	% Women	
From 16 to 19	13 300	48.87	0.49	25 300	41.11	0.92
From 20 to 24	18 200	54.95	0.56	40 700	45.45	1.25
From 25 to 29	21 600	44.91	0.75	60 600	49.67	2.11
From 30 to 34	25 000	54.80	0.93	86 700	50.29	3.22
From 35 to 39	24 500	56.33	1.00	140 700	55.93	5.75
From 40 to 44	46 100	61.39	1.95	226 800	57.98	9.57
From 45 to 49	62 300	66.13	2.65	331 700	56.68	14.11
From 50 to 54	77 900	68.29	3.97	384 200	56.82	19.59
From 55 to 59	159 200	69.66	7.15	561 600	54.45	25.21
From 60 to 64	196 600	68.57	8.51	683 300	53.48	29.59
From 65 to 69	210 100	67.16	10.22	662 400	55.42	32.21
70 and over	614 100	78.10	15.24	1 535 400	61.02	38.11
TOTAL	1 468 900	70.99	4.69	4 739 500	56.85	15.14

Source: National Institute of Statistics (INE) (1993), "Survey of the Economically Active Population. Third quarter, 1993", Madrid.

* Number of illiterates for every 100 persons.

164. The population which, while not illiterate, is nonetheless considered uneducated consists of those people who have no academic qualification whatsoever. In Spain, this group represents 15.1 per cent of the total population aged 16 and over. As with illiteracy, the proportion of uneducated persons among the population aged 55 and over is particularly high. In the 16-19 age group, the proportion is less than 1 per cent. By gender, the differences follow the same pattern as for illiteracy.

165. As demonstrated in annex II, it is apparent from a geographical analysis that the Autonomous Communities with higher illiteracy rates are located in the south, especially Ceuta and Melilla, Extremadura, Castilla-La Mancha, Andalusia and Murcia. The Communities in the south also have the highest percentages of uneducated persons.

166. In absolute terms, the majority of the illiterate population are located in Andalusia (30.1 per cent of the total), Catalonia (13.3 per cent) and Valencia (10.6 per cent). These percentages are explained in part by the relatively high proportion these Communities represent in the total Spanish population.

167. In terms of size of population, the rates for illiteracy and uneducated persons are greater in smaller towns. As can be seen in table 2, the large cities and provincial capitals have the lowest rates.

Table 2

Uneducated persons by size of population, 1991

Size of population	Illiterates		Uneducated persons	
	Rate	Total	Rate	Total
Metropolitan areas	2.6	306 297	3.3	384 122
More than 100 000 inhabitants	2.8	163 239	2.6	151 579
50 000-100 000 inhabitants	3.8	79 667	3.7	77 571
20 000-50 000 inhabitants	5.2	171 176	5.3	174 467
10 000-20 000 inhabitants	4.5	145 571	4.2	135 866
5 000-10 000 inhabitants	6.0	165 545	5.0	137 954
2 000-5 000 inhabitants	6.2	156 768	5.3	134 012
Less than 2 000 inhabitants	5.3	151 203	4.0	114 115

Source: INE (1992), "Socio-demographic survey, 1991", Madrid.

(b) Global data on the education system

(i) The network of educational establishments in Spain

168. As indicated above, the 1978 Constitution makes the public authorities responsible for guaranteeing "the right of everyone to education through general planning of education, with the effective participation of all sectors concerned and the creation of teaching establishments". It is therefore incumbent on the public administrations to permit the creation of an adequate network of teaching establishments (public and private) to meet educational needs.

169. The MEC (at the State level) and the Education Ministries in the Autonomous Communities, with full responsibility for their educational requirements, organize the administrative services necessary to plan for this demand and determine the criteria for the creation of the teaching establishments needed to meet those criteria.

170. At the State level, the MEC's Directorate-General for Planning and Investment is in charge of planning investments in educational establishments, administering agreements with private establishments and ensuring that the network of establishments is geared to educational needs.

171. In accordance with the constitutional provisions which recognize the possibility of setting up private educational establishments, the public authorities supplement the school network by providing financial support for such establishments by means of education agreements (see paras. 120-123).

172. Table 3 shows the distribution of non-university-level educational establishments in the various Autonomous Communities and indicates how many are in the public sector.

Table 3

Number of establishments at the various educational level in the different Spanish provinces. Academic year 1992/93

Autonomous Communities	Preschool/early childhood EGB/primary		Intermediate and secondary education		Special education (specific establishments)		Total
	Total	Public	Total	Public	Total	Public	
Aragón	755	625	171	87	15	4	941
Asturias	549	465	131	82	12	5	692
Balearic Islands	341	214	79	45	5	3	425
Cantabria	359	263	76	43	7	2	442
Castilla-La Mancha	1 075	921	195	142	19	12	1 289
Castilla-León	2 070	1 776	372	219	26	13	2 468
Extremadura	666	573	133	96	16	8	815
La Rioja	154	125	44	21	2	1	200
Madrid	1 631	905	658	258	70	26	2 359
Murcia	573	458	130	84	10	8	713
Ceuta and Melilla	41	28	10	7	1	1	52
TOTAL MEC 1/	8 214	6 353	1 999	1 084	183	83	10 396
*Andalusía	3 020	2 293	819	571	71	27	3 910
*Canary Islands	949	805	198	149	22	16	1 169
*Catalonia	3 053	1 856	916	417	121	40	4 090
*C. Valenciana	1 696	1 158	458	251	59	32	2 213
*Galicia	1 880	1 562	366	230	35	14	2 281
*Navarre	271	188	73	36	9	3	353
*Basque Region	804	440	356	140	19	5	1 179
*TOTAL Autonomous Communities	11 673	8 302	3 186	1 794	336	137	15 195
GRAND TOTAL	19 887	14 655	5 185	2 878	519	220	25 591

Source: MEC (1993), "Statistics on education in Spain", Madrid.

* Autonomous Communities fully responsible for education matters.

1/ Area covered by the MEC.

173. Regarding university education, table 4 shows the universities in existence as of 1993, broken down by Autonomous Community and province, the number of courses offered by each university during the academic year 1990/91 and the number of students enrolled in 1992/93.

174. The table also shows the large imbalances among the various Autonomous Communities. In some Communities the percentage of students enrolled at university is proportionately much higher than in other Communities with fewer inhabitants. This is the case, for example, with Madrid and Catalonia, where there are many more universities than in other larger, more populated Communities.

(ii) School enrolment

175. Table 5 shows the number of students enrolled at the various levels of education in recent years. The declining birth rate has caused a decrease in the number of students at the elementary levels.

176. Nevertheless, the analysis of school enrolment is more revealing if, instead of looking at the absolute number of students, we note the numbers of students enrolled at the various levels compared with the population of the same age. The lower number of students resulting from the demographic decline does not imply a reduction in the enrolment rate at the various levels.

177. As can be seen from table 6, the rate of pre-compulsory education has remained very satisfactory. The efforts of the public authorities to offer an increasing number of free places in preschool education, in response to the high demand at this level due to the fact that more and more women have jobs, have made schooling almost universal among four- and five-year-olds.

178. In compulsory education, total enrolment remains stable (except for isolated cases of drop-out).

179. In intermediate education, the Badullerato Unificado y Polívalente (BUP) and COU are maintaining high enrolment rates, significantly above those of vocational training. The absolute numbers of students at these levels have grown substantially in recent years, due to the demographic growth of that age group and to the practically universal enrolment in post-compulsory secondary education in Spain.

180. The same applies to university enrolment rates, where the absolute increases in enrolled students due to demographic growth are being reinforced by a significant expansion of this level of study.

181. For all levels, it can be said that women, in particular, conform to the same pattern of enrolment as the overall group. The percentage of women enrolled at each level is practically the same as that of women in the population as a whole.

Table 4

Spanish universities, number of courses offered and students enrolled

Community	University	No. of courses	Students enrolled
ANDALUSIA	Almería		
	Cádiz	17	17 285
	Córdoba	17	17 120
	Granada	36	68 640
	Huelva		
	Jaén		
	Málaga	21	30 292
	Seville	34	66 880
ARAGON	Zaragoza	23	39 859
ASTURIAS	Oviedo	24	36 997
BALEARIC ISLANDS	Balearic Islands	17	11 911
CANARY ISLANDS	La Laguna	25	20 947
	Las Palmas	22	18 807
CANTABRIA	Cantabria	18	13 077
CASTILLA-LEON	León	15	11 769
	Salamanca	24	28 425
	Pontificia de Salamanca	12	4 379
	Valladolid	26	43 963
CASTILLA-LA MANCHA	Castilla-La Mancha	16	21 053
CATALONIA	Autónoma de Barcelona	26	34 090
	Barcelona	24	74 600
	Girona		
	Lleida		
	Politécnica de Cataluña	18	36 156
	Pompeu Fabra	2	2 014
	Rovira i Virgili		
	Ramón Llull	1	4 136
EXTREMADURA	Extremadura	20	20 591
GALICIA	La Coruña	17	18 949
	Santiago de Compostela	25	35 295
	Vigo	16	19 473
LA RIOJA	La Rioja		
MADRID	Alcalá de Henares	13	16 495
	Autónoma de Madrid	14	29 630
	Carlos III de Madrid	5	6 650
	Complutense de Madrid	28	126 149
	Politécnica de Madrid	19	51 360
	Pontificia de Comillas	12	7 671
	San Pablo, CEU		
	Alfonso X El Sabio		
MURCIA	Murcia	24	28 491
NAVARRE	Pública de Navarra	11	6 587
	Navarre	15	12 518
VALENCIA	Alicante	14	22 099
	Jaume I de Castellón		5 942
	General de Valencia	19	62 012
	Politécnica de Valencia	14	25 888
BASQUE REGION	Basque Country	31	55 764
	Deusto	10	13 076
NATIONAL COVERAGE	U.N.E.D.		

Source: Council of Universities (1993), "Yearbook of University Statistics, 1992", Madrid, MEC.

Table 5

Changes in the number of students by educational level
Academic years 1982/83 and 1992/93

Academic year	Preschool/early childhood education	Basic general/ Primary education	BUP and COU	Vocational training	Experimental plan		University	Total
					Bachillerato	Vocational modules		
1982/83	1 187 617	5 633 518	1 117 600	650 770			692 152	9 281 657
1983/84	1 171 062	5 633 009	1 142 308	695 180			744 115	9 385 674
1984/85	1 145 968	5 640 938	1 182 154	726 000			785 880	9 480 940
1985/86	1 127 348	5 594 285	1 230 029	726 249	20 936		854 189	9 553 036
1986/87	1 084 752	5 575 519	1 265 894	734 186	33 452		902 380	9 596 183
1987/88	1 054 241	5 398 095	1 355 278	759 796	43 770		969 508	9 580 688
1988/89	1 010 765	5 263 518	1 425 777	781 748	51 872		1 027 018	9 560 698
1989/90	1 000 301	5 080 991	1 470 816	817 099	67 537		1 093 086	9 529 830
1990/91	1 005 051	4 882 349	1 499 511	849 850	92 189	7 396	1 140 572	9 476 918
1991/92	1 025 797	4 649 439	1 505 148	875 801	126 229	13 793	1 208 746	9 404 953
1992/93	1 029 438	4 476 910	1 602 941	860 015	69 585	22 714	1 286 653	9 348 256

Source: Planning Office (MEC), National Institute of Statistics.

Notes:

The data for academic year 1992/93 are provisional.

Students enrolled in professional modules in the academic years prior to 1990/91 are not numerically significant, which is why it has not been considered appropriate to include them.

Starting with the academic year 1991/92, the LOGSE was initiated, and in that year it only affected preschool education. In 1992/93, the first cycle of primary education was set up, replacing the initial basic general education (EGB) cycle. Also in 1992/93, the establishment of compulsory secondary education and the Bachillerato occurred ahead of schedule.

The data on university students do not include the third cycle.

Table 6

Enrolment rates by level, age and gender (academic year 1991/92)

Age	Preschool/ early childhood education		Basic general/ primary education		BUP and COU 1/		Vocational training 2/		University		Total	
	Total	Women	Total	Women	Total	Women	Total	Women	Total	Women	Total	Women
0-1	0.36	0.36									0.36	0.36
1	1.91	1.82									1.91	1.82
2	7.24	7.10									7.24	7.10
3	37.25	37.98									37.25	37.98
4	95.79	96.83									95.79	96.83
5	100.00	100.00									100.00	100.00
6			100.00	100.00							100.00	100.00
7			100.00	100.00							100.00	100.00
8			100.00	100.00							100.00	100.00
9			100.00	100.00							100.00	100.00
10			100.00	100.00							100.00	100.00
11			100.00	100.00							100.00	100.00
12			100.00	100.00							100.00	100.00
13			100.00	100.00							100.00	100.00
14			33.13	28.15	53.53	59.14	13.87	12.62			100.00	100.00
15			9.96	8.09	57.41	63.18	23.68	20.87			91.06	92.14
16					52.80	58.29	22.82	20.92			75.62	79.21
17					47.54	52.96	19.37	18.53	0.28	0.30	67.20	71.78
18					18.93	20.38	16.77	16.81	17.68	20.68	53.39	57.87
19					8.83	9.45	12.13	12.84	23.21	26.30	44.16	48.59
20					6.29	6.44	11.19	12.03	24.00	26.70	41.48	45.16
21					3.27	3.34	7.52	8.07	22.58	24.60	33.37	36.02
22					1.60	1.64	5.06	5.42	20.64	22.23	27.30	29.29
23					0.53	0.54	2.31	2.47	15.46	15.67	18.30	18.68
24					0.18	0.18	1.22	1.30	11.41	10.96	12.81	12.45
25									8.42	7.75	8.42	7.75
26									6.36	5.85	6.36	5.85
27									5.08	4.66	5.08	4.66
28									4.07	3.73	4.07	3.73

Source: Planning Office, (MEC), National Institute of Statistics.

1/ Includes Experimental Bachillerato Plan.

2/ Includes vocational modules.

- The enrolment rate for students aged 24 and over in middle schools is considered insignificant.

182. To complete this section, table 7 shows students enrolled, by level and courses offered at each establishment.

Table 7

Students enrolled, by level and course. Academic year 1991/92

							Experimental plan									
	Pre-school/ early childhood education		Basic general/primary education		BUP and COU		Bachillerato		Vocational modules		Vocational training		Special education 1/		University	
	Total	% public	Total	% public	Total	% public	Total	% public	Total	% public	Total	% public	Total	% public	Total	% public
Ministry of Education and Science	381 459	61.99	1 747 298	64.06	617 165	68.42	47 585	95.08	6 342	97.76	299 616	72.65	12 711	51.10	569 756	92.38
Andalusia	191 912	75.02	968 108	74.37	256 049	80.23	24 358	87.06	2 350	86.72	163 993	74.90	5 347	40.66	180 746	96.16
Canaries	41 197	75.34	213 272	78.56	63 205	87.46	1 616	100.00	631	100.00	44 681	93.44	1 286	55.37	36 782	98.93
Catalonia	170 878	47.35	657 472	54.15	213 985	64.02	13 062	71.65	1 668	83.27	158 995	57.55	6 597	35.39	163 816	93.10
Valencia	106 317	63.68	473 608	64.73	140.340	77.23	6 288	100.00	1 354	100.00	88.269	75.78	3 061	66.35	107 137	96.19
Galicia	63 610	68.50	317 188	71.37	115 849	80.53	1 056	93.75	103	100.00	60 107	80.40	2 001	57.57	65 039	96.03
Navarre	14 389	55.58	53 356	55.91	18 073	59.51	3 707	100.00	122	87.70	11 521	59.93	377	25.73	17 775	35.00
Basque Region	56 035	42.18	219 137	41.01	80 482	59.70	28 557	55.51	1 223	56.75	48 619	37.35	1 140	27.63	67 695	76.09
TOTAL	1 025 797	61.93	4 649 439	64.86	1 505 148	71.78	126 229	82.60	13 793	90.74	875 801	70.11	32 520	47.08	1 208 746	92.02

Source: Planning Office, (MEC), National Institute of Statistics.

1/ Refers to special education in specific establishments.

(iii) Qualifications

183. Data on the qualifications obtained by students are provided in table 8; they reflect students who complete each level as a percentage of those who enrolled at the beginning of the year.

Table 8

Number of students obtaining qualifications by level of education and gender. School year 1990/91

Levels		Total		Women	
		%	Number qualifying	%	Number qualifying
EGB	School Certificate	75.3	500 784	77.5	253 079
	Education certificate	22.0	146 579	18.0	58 811
BUP*		77.46	272 008	54.84	104 958
COU*		66.63	215 817	67.45	119 167
FP.I		55.29	117 763	63.15	60 446
FP.II		69.11	75 612	73.58	37 815
University**	Ordinary degrees	53.45	-	-	-
	Engineering degrees	35.25	-	-	-
	Technical engineering degrees	27.12	-	-	-
	Diplomas	72.73	-	-	-

Source: INE (1992). "Encuesta Sociodemográfica. 1991", Madrid. Council of Universities (1992), "Anuario estadístico universitario. 1991", Madrid, MEC.

* The percentages for these levels refer to the number of students who complete the final year compared with the number that enrolled for the course during the same year.

** This is a gross percentage, and gives the number of students that completed university courses compared with the numbers that enrolled in the courses three, five, or six years previously (depending on the subject).

184. Of all the pupils who completed EGB in the school year 1991/92, 75 per cent were awarded the School Certificate and 22 per cent the Education Certificate. At this level, girls were higher achievers. In the case of intermediate education, the pass rate declines considerably. As regards the PAAUs (aptitude tests), data for the school year 1990/91 show that 80 per cent of pupils who took them were successful. No figures are available for the success rate at university, although a rough idea may be gained from the percentage of students who complete their studies within the prescribed period for each course (without resitting a subject). This information is approximate, as it has been calculated using the number of students who enrolled three, five or six years previously; consequently, it does not represent a cohort of pupils. Nevertheless, it can be stated that the pass rate is lower in the more technical subjects (architecture and engineering).

(iv) Failure rates

185. This section provides data on pupils who leave the school system at each level (drop-out rates), and pupils who fail to achieve the standards set for each level but continue their education (repeating a school year).

186. Although no overall figures are available on the number of pupils who drop out of school, they may be estimated on the basis of the proportion of pupils who remain in the system, depending on age (set out in table 6). In the case of EGB, which is a compulsory level, it is not appropriate to talk of drop-outs, as all pupils remain in the system until they complete the level (except in isolated cases). However, not all pupils reach the standards set for this level. As may be seen from table 8, 22 per cent of pupils who complete EGB are awarded only the Education Certificate. In the case of intermediate education, in the school year 1991/92 the Technical Inspectorate of Education made an estimate for the area administered by MEC, which showed that approximately 1.2 per cent of BUP students, 4.2 per cent of FP.I students and 4.4 per cent of FP.II students dropped out.

187. Between 5 and 18 per cent of pupils, depending on the level, repeat some part of their education, as may be seen from table 9. The percentage increases at non-compulsory levels. There are no data on failure rates at university, although these may deduced from the percentage of students who complete their courses within the prescribed period (three, five or six years, depending on the subject), as has been indicated in the section on performance.

Table 9

Percentage of pupils who repeat a level, by level and gender. School year 1990/91

Levels		Total pupils		Women	
		%	Number repeating	%	Number repeating
EGB	Intermediate	5.25	256 323	4.33	124 016
	Final year	7.39	49 130	6.39	24 121
BUP	Intermediate	15.82	185 980	14.71	94 079
	Final year	15.80	55 479	14.44	27 636
COU		18.65	60 410	17.23	30 439
FP.I	Intermediate	11.74	55 733	-	-
	Final year	15.49	32 999	-	-
FP.II	Intermediate	10.86	39 375	-	-
	Final year	14.28	15 616	-	-

Source: INE (1992), "Estadística de la enseñanza en España, Curso 1990/91", Madrid.

188. As a rule, the highest percentages of pupils repeating occur in the final years of each level, as pupils have to pass in all subjects in order to obtain the relevant qualification. On the other hand, within each level, they may go on to a higher year even though they have not passed one or more subjects.

(c) Private education in Spain*

(i) Non-university levels

189. Private education has always played a significant role in the Spanish education system. In recent years, the number of private establishments has declined slightly, but it is still very considerable, as may be seen from table 10, which shows the percentages of establishments, teachers and pupils in private education in comparison with the number of establishments, teachers and pupils in the education system as a whole for the school year 1992/93.

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* This concerns privately-owned establishments, regardless of their funding.

Table 10

Proportion of establishments, teachers and pupils in private education. School year 1992/93

	Establishments	Teachers	Pupils
TOTAL PRESCHOOL/EARLY CHILDHOOD AND EGB/PRIMARY	26.31%	29.83%	35.07%
Preschool/Early childhood			35.35%
EGB/Primary			35.00%
TOTAL INTERMEDIATE/SECONDARY EDUCATION	44.50%	23.66%	27.31%
BUP and COU			28.00%
Experimental Bachillerato (REM)			22.49%
Compulsory Secondary Education			8.68%
LOGSE Bachillerato			15.90%
Vocational training			29.39%
Vocational modules			11.59%
TOTAL SPECIAL EDUCATION	57.61%*	39.74%**	49.18*

Source: MEC (1993), "Estadística de la enseñanza en España. 1992/93. Datos avance y evolución del alumnado", Madrid.

* Specific special education establishments.

** Includes the figure for specific establishments and equivalent units in ordinary establishments.

190. It is apparent that private education is most prevalent in special education. The reason why there are more private special-education establishments is that in the State system the majority of pupils with special needs are integrated into the ordinary schools. However, the number of teachers and pupils is greater in the State system.

(ii) University education

191. Private education is much less common at this level than at non-university levels. Table 11 shows the number of private universities in comparison with all universities (public and private).

Table 11

Private education at the university level

	Universities 1/	Degrees 2/	Departments 3/	Students 3/	Teachers 2/
Total	51	737	1 958	1 295 585	63 665
Private	7	50	111	41 780	3 351
per cent	14 per cent	7 per cent	6 per cent	3 per cent	5 per cent

Source: Council of Universities (1994), "Anuario de estadística universitaria. 1993", Madrid, MEC.

1/ Until 1993.

2/ Academic year 1990/91.

3/ Academic year 1992/93.

192. The higher number of students in State education, as shown in the table, is a characteristic of all provinces in which there are public and private universities, with the exception of Navarre. This is because the local private university has a long tradition behind it, as it was set up in 1952, whereas the Universidad Pública de Navarre has been in existence for only seven years.

4. Education for groups with educational deficiencies

(a) Adult education

193. Adult education focuses on the comprehensive development of persons aged over 18 by providing basic, vocational or cultural training. These sectors are among those which have been transferred to the Autonomous Communities as part of their responsibilities in the area of education.

194. The LOGSE organizes education for adults, which it adjusts to the specific educational needs of the target population and to their ways of learning. It is provided on an open, comprehensive and continuous basis, and minimizes the divisions between initial and continuing training, between general and vocational education, and between academic, technical and practical knowledge.

195. For these reasons, the basic aims of adult education are:

(a) To extend basic and secondary education, leading to higher qualifications;

(b) Thoroughly to reform, improve and develop vocational training;

(c) To guarantee the right of the whole population to an education which offers a broad range of subjects.

196. On the basis of these aims, the criteria that define priorities for action in the area of adult education are based on the following:

(a) The high percentage of the adult population without basic qualifications (School Certificate or FP.I), which are vital for educational, social and professional advancement;

(b) A poor knowledge of foreign languages among the Spanish population as a whole;

(c) The serious deficiencies in vocational training among the adult population;

(d) The need to achieve the objective set by the State at the Jomtiem Conference to eradicate illiteracy completely by the year 2000.

197. In order to meet these priorities, adult education requires a diversity of measures at different levels. There are two angles from which adult-education programmes are addressed:

(a) Basic training for persons of working age who lack basic skills and expertise to enable them successfully to enter the workforce or improve their education;

(b) Training to acquire basic qualifications such as the School Certificate and FP.I, which give adults a better opportunity of finding work.

198. Basic education for adults - through both classroom teaching and distance education - is provided by a number of public and private organizations and takes the form of numerous programmes. Noteworthy among them is the Permanent Education Plan for Adults (PEPA), which began in the school year 1990/91 and is implemented through an agreement between MEC, the Women's Agency and the National Employment Institute.

199. Under the agreement, the fundamental task assigned to the Women's Agency is to train teachers and develop educational materials. The following are among its most noteworthy activities: revision of textbooks, starting with the basic levels of education (elimination of stereotypes and introduction of equality), developing awareness among teachers, introducing women's issues across the whole range of subjects, basic training of EGB teachers, preparation of educational materials and dissemination of documents, brochures and books on coeducation.

200. This programme became fully operational during the 1991/92 and 1992/93 school years, and has so far benefited 22,500 women, with highly satisfactory results.

201. The programme was first implemented, as a matter of priority, in those regions or Autonomous Communities in which women were at a severe disadvantage in terms of education in comparison with men, and was subsequently extended to all the provinces within the MEC's sphere of competence.

202. In places where State educational establishments and classrooms for adults were insufficient, the participation of private non-profit organizations, particularly those specializing in training women, was encouraged by means of subsidies. On completion of PEPA's operational period, its activities were incorporated into the regular activities of adult education centres.

203. With regard to literacy, mention should also be made of the activities undertaken in accordance with the agreements reached at the forty-second International Conference on Education, such as, for example, the announcement of the Miguel Hernández Prize, in recognition of the achievements of teachers and institutions who work with underprivileged groups, and participation in the publication of ALPHA 92, which is published by the UNESCO Institute for Education in Hamburg and concerns literacy in developed countries.

204. Other activities undertaken have included: teaching workshops in adult education centres, the signing of cooperation agreements with a number of institutions to provide their workers with training leading to qualifications in accordance with their occupational field, the organization of tests for the award of basic academic qualifications, and the production of a daily television programme ("A saber") leading to the award of the School Certificate, etc.

205. The MEC has also carried out activities designed to cater for specific minority groups whose educational needs are difficult to meet and who require special attention. This is the case with the ethnic minorities, disabled adults, the active working-age population with specific requirements in order to remain in employment or to participate in vocational or job training, and women engaging in social and vocational reintegration.

206. Adult literacy programmes have also been implemented by the Autonomous Communities. Prominent among them are those Communities where the proportion of illiterates and uneducated persons is higher than the national average. Noteworthy among them is the Autonomous Community of Andalusia, in which a particularly large number of programmes have been implemented.

Coordination of the provision of classroom and distance adult education

207. The LOGSE stipulates that adult education must be provided through classroom teaching and, in particular (on account of its suitability), through distance teaching.

208. One of the first measures taken to this end has been the establishment of the Centre for the Introduction and Development of Distance Education (CIDEAD), whose purpose is to introduce the necessary technical measures to ensure the provision of innovative and diversified distance education for adults. Once the Centre's organizational and functional structure had been established, a variety of training modules were designed and introduced. In connection with the introduction of distance education for adults, adult education centres were authorized to provide basic education courses through distance teaching.

209. In addition, the LOGSE offers the possibility of access to vocational training without the need to meet established academic requirements, provided the applicant proves, in a test supervised by the education authorities, that he or she is capable of successfully following the courses. Persons who wish to follow higher-grade distance vocational training must be aged over 20.

210. As a result of the desire to expand the provision of traditional courses in adult-education centres, in the last two school years the range of courses has been broadened through the incorporation of a number of vocational training modules into distance education. CIDEAD has designed the corresponding modules to be taught through distance education and has authorized specific vocational training centres to allow their teachers to tutor pupils enrolled in these courses, as an additional task.

211. The LOGSE also provides specific distance language courses for adults, for which demand is heavy. The programme "That's English", which was written, directed, supervised and approved by the MEC itself, was developed in conjunction with British public television and Spanish television and with the support of the Banco Exterior de España. A total of 50,000 persons enrolled for the launch of the programme. The programme is flexibly structured and can be adjusted to different rates of learning. Its contents are subdivided into nine modules, each of which lasts eight weeks, and include a set of tests to assess students' progress and award the corresponding credits, which are equivalent to official language diplomas. Pupils are provided with extensive teaching support and tutors.

212. Lastly, table 12 shows the number of participants in the various adult education programmes in Spain during the academic year 1991/92.

Table 12

Participants in adult literacy programmes. School year 1991/92

	Academic sector		Socio-cultural sector	Vocational sector
	Literacy	School Certificate		
Total pupils	49 966 20.2%	103 885 42%	81 571 70.1%	34 795 29.9%
Women	33 469 21.5%	59 396 38.1%	60 792 70.7%	25 164 29.3%

Source: INE (1993), "Estadística de la enseñanza en España 1991/92", Madrid.

(b) Remedial education

213. In Spain the particular sociocultural, ethnic, economic, geographical or other characteristics of certain population groups place them at a disadvantage when they enter the educational system.

214. These underprivileged groups include: the school population in rural areas where efforts to prevent children from dropping out of school are a priority; that sector of the population already enrolled in school but which has to cope with social and educational problems; young people aged between 14 and 16 who are not enrolled in school and require assistance in finding work and their place in society; the itinerant population, made up of temporary workers and people working with fairs and circuses, whose continual movements hamper proper progress at school; ethnic minorities, in particular the Gypsy population; immigrant communities, which are not yet sufficiently integrated into society and the education system; and the prison population, whose living conditions are the primary hurdle to participation in education. In certain cases, individuals or groups belong to two or more categories.

215. The MEC, occasionally in conjunction with other ministries, practises a policy of remedial education which is implemented through specific programmes designed to facilitate these groups' integration into society and education. The programmes cover levels corresponding to preschool, primary and secondary education and are basically intended for pupils aged between 3 and 19. The prime objective is to cater for the specific educational requirements of these groups, to develop measures to ensure they receive complete schooling and to provide alternatives.

216. In the case of the Gypsy ethnic minority, the Ministry of Social Affairs, through the Gypsy Development Plan and the projects which it co-finances with the Autonomous Communities, gives priority to measures designed to provide support and follow-up for the schooling of Gypsy children and literacy campaigns for adult Gypsies.

217. In addition, as part of cooperation with NGOs and State or Autonomous Community institutions, the Ministry finances social integration and employment programmes with subsidies derived from the personal income tax fund. The most noteworthy of these are adult literacy programmes and School Certificate courses, the literacy and basic education programmes for Gypsy women, child-care centres, monitoring of school performance, temporary care of children of migrant workers, community action for children, and extracurricular and educational-recreational activities.

218. The LOGSE lays down the general guidelines for remedial education, whose ultimate objective is to give effect to the principle of equal opportunities in education:

(a) To prevent and rectify, during the preschool stage, the inequalities deriving from personal, economic, geographical or other circumstances, by ensuring that children are able to attend school before they reach the age of compulsory education;

(b) To guarantee for all pupils, at the compulsory levels of education, a free school place in their own town or, failing that, in the town nearest their home; in rural areas, whenever it is necessary to enrol children in a different town, to provide school transport, canteen and boarding facilities; to make available the necessary human and material resources for establishments that provide schooling for children with learning difficulties, so that they may achieve the objectives of basic education, by adapting their structure and curricula to pupils' specific needs; finally, in the case of families who are unable to assume their responsibilities, to guarantee that on a subsidiary basis the public authorities take over responsibility for the children in order to ensure that they receive an education;

(c) To offset social and economic inequalities in post-compulsory education through an adequate system of scholarships and grants, and fair territorial distribution of school places.

(i) Organization of remedial education programmes

219. The remedial education programmes are operated and managed by the Directorate-General for Official Vocational Training and the Furtherance of Education. The Directorate decides the general characteristics of programmes and allocates resources through various channels: the MEC itself, the Autonomous Communities, public or private partner institutions, and agreements with the European Union for European-wide activities and support for the children of migrants at school.

220. Remedial education programmes are linked to the following objectives:

(a) The establishment of support teams which, on the basis of resource centres located in "areas designated as educational priority areas" (ZAEPs), provide assistance to educational establishments;

(b) The provision of incentives to encourage teachers to remain in schools where vacancies are difficult to fill;

(c) Literacy campaigns;

(d) Special courses for young drop-outs aged from 14 to 16 to enable them to complete EGB and to provide them with vocational training;

(e) Investment in buildings and special equipment in the ZAEPs;

(f) Establishment of specific study-aid modules.

221. Since the school year 1987/88 a total of five programmes have been implemented. Four of them were preventive, while the programme for young drop-outs offers an alternative for children who have failed in their schooling. Table 13 summarizes their aims and activities.

Table 13

Remedial education programmes

Programmes	Aim	Activities
Programme of assistance for rural areas	* preventive * support for teaching staff * assistance for pre-primary children who are not enrolled * infrastructures for rural schools	* Resource and Support Service Centres * Preschool education at home * Rural secondary schools serving several villages * Rural Centres for Educational Innovation (CRIEs)
Projects in schools	* preventive * to prevent dropping-out	* curriculum flexibility
Assistance for young drop-outs	* corrective * comprehensive schooling for underprivileged children aged 14-16	* occupational workshops
Cultural minorities	* preventive * enrolment of pre-primary children * Gypsy population * Portuguese population * new groups of immigrants	* support for teaching staff * cooperation with other ministries
Itinerant population	* preventive * children of seasonal, circus and fairground workers	School attendance and results booklet

222. In the labour sphere, in 1987 an agreement was signed between the Ministries of Labour and Education on cooperation in carrying out training and job-promotion activities (FIP plan) and the incorporation of occupational vocational training (FOP) within official vocational training.

223. There are no specific curricula for the spheres covered by remedial education. Adjustment to the sociocultural, economic and environmental circumstances is effected by using methodologies and means whose significance for the group makes them easily accessible to it, progressing from their own common experiences to more distant and discrete experiences.

224. Under the new approach introduced by the LOGSE, the problem of inequality is also addressed within the context of the official educational system by focusing on diversity. This policy acquires particular relevance during the

last years of compulsory education, specifically in the second ESO cycle. Provision has been made, at this level, for four areas of attention to diversity in ascending order of importance:

(a) A large number of options at the ESO level in order to enable the pupil to study the subjects most suited to his interests and abilities;

(b) Curricular adjustments providing for minor variations in the purpose, content, evaluation criteria and teaching methodologies in the general curriculum, in response to the particular needs of pupils who are unable to adjust to the normal pace of the classroom;

(c) Diversification programmes under which pupils aged 16 years or over who have not achieved the minimum objectives of ESO may follow a programme that is in keeping with their needs and separate from the normal curriculum;

(d) Social Guarantee Programmes for young men aged 18 years or over who have not achieved the objectives of ESO. This programme combines basic education courses with vocational training.

225. The LOGSE essentially modifies the general approach to remedying inequalities. The measures deriving from the Royal Decree of 1983 were applied through a network parallel to the system. Under the LOGSE, remedying inequalities due to social, economic, cultural, geographical, ethnic or other factors forms an inherent part of the educational system.

226. Among the various remedial education measures, we have singled out below those aimed at reducing inequalities in educational opportunities affecting the inhabitants of rural areas and the immigrant population. We have done so in response to the emphasis placed on these groups by the United Nations questionnaire.

(ii) Rural schooling

227. Support measures for rural schooling have targeted three basic areas: the operation of the Resource Support Service Centres, the Rural Centres for Educational Innovation and finally, assistance with young children who do not attend preschool establishments.

228. The Resource Support Service Centres direct their activities primarily towards incomplete schools located principally in rural areas. The purpose of the Centres is to supply resources and teaching materials to the schools, to distribute them and to coordinate the activities to be undertaken so as to ensure that they are correctly used. The Support Service Centres foster professional contacts with rural teachers, cooperating with them in the establishment of action plans throughout the school year and promoting joint work, individual attention to the pupil and upgrading. The two Centres function to all intents and purposes as a single team in the vast majority of cases, although they may, on certain occasions, be called upon to adapt their operation and organization to specific cases depending on the context of their actions.

229. The purpose of the Rural Centres for Educational Innovation is to supplement the work of the Resource and Support Service Centres for rural schools by helping to develop various aspects of the curricula that are difficult to address with the limited resources of the incomplete rural establishments, and to improve the social environment of the pupils attending such establishments by promoting a variety of social and cultural activities.

230. Finally, steps are being taken to reduce the number of young children failing to attend educational establishments (particularly children aged four or five) as a result of the lack of schools in certain remote areas.

231. This tendency could lead to a situation of inequality as soon as such children reach the compulsory education stage. The activities are undertaken by teachers who are members of the team put together by a Resource and Support Service Centre, who work with the pupils individually once or twice a week, prepare material, organize activities, and endeavour to achieve the progressive integration of the pupil into the dynamics of the school system.

232. During the academic year 1991/92, 260 Resource and Support Service Centres were in operation in the area covered by the MEC. At the same time, there were 15 Rural Centres for Educational Innovation, with a total of 445 assistance centres, and 78 teams assisted school-age children who were not enrolled in schools.

(iii) Migrant population

(a) Immigrants

233. Every year, Spain receives a large number of immigrants. This is essentially due to two factors: the widespread use of the Spanish language and our geographical proximity to the Maghreb.

234. Most of the immigrant population require special educational attention, and Spain must respond to that need. Thus, a series of appropriate educational programmes was prepared with a view to enrolling the young children in schools and ensuring that they attend school regularly and do not drop out, endeavouring at all times to take account of the particular characteristics of each cultural group.

235. The activities conducted in this area focus on the enrolment of school-age children, placement and the organization of school transport, the reduction of absenteeism with the participation of the local bodies, and the training and upgrading of teachers required to take care of these groups by enhancing their understanding of the social and cultural reality of their environment, a task which is mainly carried out by the Teachers' Centres. During the academic year 1991/92, facilities were provided for 1,194 children of immigrants within the area covered by the MEC.

236. A variety of activities have been undertaken by the Autonomous Communities, either independently or through cooperation agreements with the MEC.

(b) Educational activities abroad

237. Spain has been developing educational programmes outside the country with a view to meeting the needs of the Spanish population residing abroad and responding to the demand for Spanish as a foreign language, while at the same time contributing to the promotion and dissemination of Spanish language and culture throughout the world.

238. Table 14 below describes the Spanish educational establishments abroad, indicating the number of students registered at the different levels for the academic year 1992/93.

Table 14

Spanish educational establishments abroad
Academic year 1992/93

Country	Establishments	Students				
		EBG	BUP/COU	Vocational training		Total
Andorra	9 1/	2 130	664 2/	-	-	2 794
Brazil	1 3/	1 238	258	-	375	1 871
Colombia	1	492	156	-	-	648
France	2	187	258	-	-	445
Equatorial Guinea	2	355	-	-	-	355
Italy	1	199	104	-	-	303
Morocco	10	2 274	569	359	525	3 727
Portugal	1	629	257	-	-	886
United Kingdom	1	352	147	-	-	499
Total	28	7 856	2 413	359	900	11 528

1/ The buildings in which the EGB centres are located are the property of the State of Andorra.

2/ Includes 180 INBAD students.

3/ The Centre is jointly owned, *inter alia*, by the Spanish State. The data are for the academic year 1992.

239. The education network outside the country is made up of public establishments, jointly owned establishments of which the Spanish State is one owner, Spanish sections of foreign educational institutions, and courses in Spanish language and culture provided by foreign establishments as part of an integrated curriculum and in native-language and culture classes organized

within the framework of certain associations. Added to these are the advisory programmes in the different countries on the teaching of Spanish at the various educational levels.

(iv) Data on remedial education

240. There has been a significant increase over the past few years both in the material resources available for remedial education and in the measures taken.

241. Table 15 below shows the action taken under the programme of prevention and care for school drop-outs in basic general education and vocational establishments during the academic year 1991/92 in the area covered by the MEC.

Table 15

Projects and teachers in the programme of prevention and care for school drop-outs. Area covered by the MEC
Academic year 1991/92

	EGB			
	Initial and intermediate cycles	Advanced cycle	Vocational training I.	Vocational training II
Projects	57	237	14	4
Teachers	58	362	26	8
Pupils	9 382	21 556	726*	319*

Source: Consejo Escolar del Estado (1993), Report on the progress and status of the education system. Academic year 1991/92, Madrid, MEC.

* To the total number of pupils cared for in vocational training establishments must be added 60 pupils attending the induction courses.

242. The same programme provided for the operation of 48 occupational workshops in the area covered by the MEC, involving 108 teachers whose task was to complete the basic education of 1,431 pupils, adapting the course material as required, introducing the necessary changes to the curricula and assisting them in their personal, social and professional integration.

243. The activities aimed at the children of seasonal workers and persons working in fairs and circuses, whose itinerant lifestyle stands in the way of normal schooling, progressed during the year under consideration. A specific curriculum has been drawn up for the teaching units established in the circus communities which ensures that in developing specific aspects of the curriculum due consideration is given to such aspects as linguistic plurality, the different occupations available and the possibilities offered by the itinerant lifestyle. The MEC has concluded three agreements with circus enterprises involving the operation of five teaching units.

244. In the case of seasonal agricultural workers, resources were granted to the provinces concerned by this migratory phenomenon in order to ensure the school enrolment of their children. The teachers caring for such children received prior training in a series of courses aimed at familiarizing them with the content of the programme and the characteristics of the population group concerned.

245. Table 16 provides a summary of these activities, indicating the total number of pupils in the MEC area reached by the remedial education programme during the academic year 1991/92 (excluding the rural schooling projects).

Table 16

Pupils reached by the remedial education programme, excluding rural schooling projects. Area covered by of the MEC
Academic year 1991/92

	Prevention/Care for drop-outs	Occupational workshops	Cultural and ethnic minorities	Total
Initial/ intermediate cycle	9 382			
Advanced cycle	21 556			
Vocational training I	726			
Vocational training II	319			
Total	31 983	1 431	11 277	44 691

Source: Consejo Escolar del Estado (1993), Report on the progress and status of the educational system. Academic year 1992/93, Madrid, MEC.

(c) Education of pupils with special educational needs

246. Act No. 13/1982 on the social integration of disabled persons modified the concept of special education applied hitherto, making it more comprehensive, with the aim of including the disabled in the ordinary educational system.

247. Subsequently, Royal Decree No. 334/1984 of 6 March 1984, on the organization of special education, developed the main features and principles of education for pupils with special educational needs. Under that Decree, special education was defined as an integral part of the education system and concrete expression was given to the various types of support and adjustment required for pupils with special needs to be able to exercise their right to education effectively.

248. The Decree proposes the following guiding principles for special education:

(a) Principle of standardization, according to which disabled people should not use or receive exceptional services in any but strictly essential cases. Academic integration is the term used to describe the application of this principle;

(b) The principle of sectoralization, which involves harmonizing and adjusting the provision of services to the environment in which the disabled person lives;

(c) Principle of individual educational treatment, which means in practice that every disabled pupil should receive the specific education required for his individual development.

249. Such children must be given schooling which meets a number of specific requirements, such as: early educational supervision from the moment deficiencies or anomalies are noted; schooling in ordinary establishments wherever possible; schooling in special establishments or units, when required by the gravity or attendant circumstances of the disability. As is the case for the rest of the school population, schooling is compulsory and free up to the age of 16 in establishments financed with public funds.

250. The support and adjustments required for special education take three basic forms:

(a) Educational assessment and guidance: prevention and early detection of disabilities, multi-dimensional evaluation of pupils, formulation of individual development programmes and technical/pedagogical guidance;

(b) Educational support: adequate technical and pedagogical assistance for the implementation of individual development programmes, adaptation of teaching resources and provision of the necessary guidance for families;

(c) Personalized treatment and attention, especially with regard to speech therapy, physiotherapy and, where appropriate, psychotherapy or psychomotor treatment.

251. Information relating to such pupils may be found in section 3 containing general information on education.

5. Financing of education

(a) General matters and overall data on total expenditure on education

252. Education in Spain is financed by funds from both the public and private sectors. Total expenditure on education is defined as the range of (operational and capital) expenditure on education (both public and private)

financed from public and private sources. The nature of the source of funds (public or private), rather than that of the recipient, is what determines the public or private nature of the outlay.

253. Tables 17 and 18 show total expenditure on education, broken down by source of funding in the first and by budget head in the second.

Table 17

Total expenditure on education by source of funds, 1991

Source		Amount*
State	Total	1 277 371.0
	MEC	1 080 145.7
	Other ministries	197 225.3
Autonomous communities		1 256 208.2
Municipalities		147 184.4
TOTAL PUBLIC		2 680 763.6**
TOTAL PRIVATE		684 359.0***
TOTAL EXPENDITURE ON EDUCATION		3 365 122.6

Source: Planning Office (MEC).

* In millions of pesetas.

** Including 274,071.9 million in the form of agreed subsidies for private education.

*** Including scholarships and grants.

Table 18

Total expenditure on education by budget heads*, 1991

		PUBLIC		PRIVATE
		FOR PUBLIC-SECTOR ESTABLISHMENTS	FOR PRIVATE-SECTOR ESTABLISHMENTS	
RUNNING COSTS	Administration	183 080.8		
	Staff	1 671 088.4		
	Scholarships and grants	69 449.5	**	
	Social services	42 974.8		
	Other expenditure	182 503.7		
	Subsidies for private education	-	274 071.9	
	TOTAL	2 149 097.2	274 071.9	
CAPITAL COSTS		254 595.2		
TRANSFERS		2,999.3		
TOTAL***		2 406 691.7	274 071.9	684 359.0

Source: Planning Office (MEC).

* In millions of pesetas.

** Included in the total figure for the private sector.

*** Total expenditure on education amounted to 3,365,122.6 million pesetas.

254. As can be seen, roughly 80 per cent of total expenditure on education is financed by public funds, and roughly 20 per cent by private funds. In recent years there has been a noticeable trend towards an increase in public funding to the detriment of private funding.

255. According to data from the Planning Office of the MEC, total expenditure on education in Spain for 1991 accounted for 5.72 per cent of the gross domestic product (GDP), 4.56 per cent of which was public and 1.16 per cent private expenditure.

(b) Public financing

256. The public financing component of total expenditure on education is provided by Central Government (basically the MEC, although other ministries also supply funds), the Autonomous Communities in the exercise of educational responsibilities and the local corporations. The Autonomous Administrations have seen the sharpest rise in their share of public education expenditure in recent years, owing to the increase in their educational responsibilities.

257. Public funds are not only used to finance public-sector establishments, but are also earmarked as subsidies for grant-aided private establishments, and as scholarships and student grants.

(i) Overall data on public expenditure on education

258. As was shown by table 17, government expenditure on education amounted to 2,680,763.6 million pesetas in 1991, representing about 80 per cent of total expenditure on education and about 4.56 per cent of GDP.

259. Tables 17 and 18 showed the breakdown of this expenditure by originating government department and by budget head. Table 19 shows the distribution of public expenditure by level of education.

Table 19

Public expenditure on education by level and type of education*, 1991

LEVEL AND TYPE	TOTAL
Prior to first level	167 991.2
1st level	574 088.4
2nd level, 1st cycle	418 642.1
2nd level, 2nd cycle	822 300.1
3rd level	479 350.3
Special education	14 800.1
Adult education	21 436.0
Other types of education	170 757.4
Other unspecified educational programmes	11 398.0
TOTAL	2 680 763.6

Source: Planning Office (MEC).

* In millions of pesetas.

(ii) Financing of public-sector schools

260. Table 20 gives a breakdown, by educational level, of public spending on education in State schools. It shows the level of public expenditure on State schools as a percentage of total public expenditure.

Table 20

Public expenditure allocated for State schools and percentage relationship to total public expenditure*, 1991

LEVEL AND TYPE	AMOUNT	PERCENTAGE OF TOTAL EXPENDITURE
Prior to first level	162 111.1	96.5
1st level	453 954.2	79.07
2nd level, 1st cycle	331 614.6	79.21
2nd level, 2nd cycle	767 909.2	93.39
3rd level	479 350.3	100.00
Special education	8 160.9	55.14
Adult education	21 436.0	100.00
Other types of education	170 757.4	100.00
Other unspecified educational programmes	11 398.0	100.00
TOTAL	2 406 691.7	89.78

Source: Planning Office (MEC).

* In millions of pesetas.

261. Enrolment in non-university public-sector establishments is totally free of charge. In specific cases, transport, school meals and boarding facilities are also free for the compulsory levels of instruction. Families must bear the cost of ancillary canteen and transport services for non-compulsory levels of instruction, and they may contribute to the conduct of out-of-school activities, through voluntary contributions by parents' associations.

262. In public-sector universities, students are required to contribute only a small part of the cost of their education, through enrolment fees. In accordance with the LRU, the level of university fees for studies leading to official university degrees is set by the corresponding Autonomous Community, or by the Central Government in the case of universities located in Autonomous Communities which do not exercise responsibilities in the field of higher education. These fees have to be adjusted to the limits established by the Council of Universities. Tuition fees for other studies 2/ are set by the Social Council of the university concerned. 3/

263. In universities with no Social Council or equivalent body, fees will be approved by the MEC. The university fees set by the MEC depend on the degree of experimentality of the teaching. Seven separate grades are distinguished, ranging from experimentality grade 1 - corresponding to more experimental studies - to experimentality grade 7, corresponding to arts studies. Fees for a complete course during the academic year 1992/93, depending on the degree of experimentality, ranged from 77,160 to 49,772 pesetas.

264. It is also possible to enrol in separate non-compulsory courses for which the level of the fees is variable, depending not only on the experimentality of the studies concerned, but also on the number of annual courses that go to make up the full programme of study of which the individual course forms part (less than seven, seven or more), and the number of repeat enrolments in the same course.

(iii) Financing of grant-aided establishments

265. As was mentioned earlier, some privately-owned establishments may be supported by public funds through agreements with the education authorities. According to the LODE, the amount of public funds allocated to such agreements is determined annually in the general State budget. The amount of the economic module applicable to the system of agreements for each school unit at each educational level is also determined on an annual basis. The module in question includes:

(a) Salaries of teaching staff;

(b) Salaries of administrative and service personnel;

(c) Specific amounts for the maintenance and upkeep of the establishment;

(d) Payments for replacement teachers, where necessary;

(e) Allowances in respect of administrative tasks.

266. Of the total amount of public expenditure on education, 10.22 per cent is allocated to education agreements. A breakdown of this expenditure, according to the different levels of education, is shown in table 21.

Table 21

Public expenditure on education allocated to private education through agreements with private establishments*, 1991

LEVEL AND TYPE	AMOUNT	PERCENTAGE OF TOTAL EXPENDITURE
Prior to 1st level	5 880.1	3.5
1st level	120 134.2	20.93
2nd level, 1st cycle	87 027.5	20.79
2nd level, 2nd cycle	54 390.9	6.61
3rd level	-	0.00
Special education	6 639.2	44.86
Adult education	-	0.00
Other types of education	-	0.00
Other unspecified educational programmes	-	0.00
TOTAL	274 071.9	10.22

Source: Planning Office (MEC).

* In millions of pesetas.

267. Subsidies are granted mainly for the compulsory levels of education (90 per cent for basic general education - EGB - and 85 per cent for vocational training - FP), and the Administration determines the maximum amount to be contributed by each pupil. This contribution depends on the type of agreement concluded with the establishment. Roughly three quarters of private establishments are covered by such agreements.

(iv) Policy in respect of scholarships and student grants

268. Scholarships and student grants are channelled through the MEC, which endeavours to establish the necessary machinery to make up for economic inequalities in education. The system of scholarships is aimed at achieving the following basic objectives:

(a) To facilitate the continuation of non-compulsory studies for able students who lack the necessary financial resources;

(b) To offer incentives for the schooling of 14 and 15-year-old drop-outs;

(c) To assist members of the school population who require particular attention;

(d) To encourage academic development, creativity, expansion of knowledge and exchange of experience.

Grants are variable in nature and amount, depending on the level of education for which they are intended.

269. At the compulsory levels of education, where cost-free education is guaranteed through the public financing of schools, the purpose of the grants is to contribute to the following ancillary services:

(a) School transport for pupils who have to travel more than 3 km to school;

(b) Free school meals for pupils using school transport and pupils from disadvantaged homes;

(c) Boarding arrangements for pupils who cannot follow normal schooling (with guaranteed weekend visits to parents).

270. Such grants amounted to a total of 36,609 million pesetas in the school year 1990/91. The breakdown of this amount in terms of types of grant is shown in table 22.

Table 22

Assistance for supplementary educational services

Number of student beneficiaries. Academic year 1990/91

Transport	513 811
Meals	527 980
Boarding	28 388
Total	1 070 179

Source: MEC (1992), "National Education Report. Spanish-language version", International Conference on Education, 43rd meeting, Geneva, 1992.

271. At the levels preceding and following compulsory schooling, allocations are made available to finance the education of the most economically disadvantaged students. There are two types of programmes at these levels:

General scholarships and grants for post-compulsory levels of education. This assistance is determined on the basis of the income of the family unit and the student's academic progress. This category includes assistance for travel, urban transport, accommodation, educational materials and exemption from fees and also grants to compensate for the income lost to the family because the student is not working in the case of low-income families;

Special scholarships and grants, particularly at the preschool level (for four and five-year-olds enrolled in private schools whose family income does not exceed specified levels); assistance with special education (assistance with transport, meals, accommodation, etc., based on family circumstances), work-study scholarships (for university students in the last years of their course), residential places in integrated educational establishments for students in intermediate education with learning difficulties, and grants for language courses abroad.

(c) Private funding

272. The private funding of education should be understood as that part of the total cost of education financed primarily with private means. These funds are derived almost entirely from families, although there are private institutions which also make funds available to educational establishments.

273. Even though the private grant-aided schools receive support in the form of public funds, non-grant-aided private schools are funded entirely by the families of the students and by the owner of the school or by bodies willing to support it. Thus, the family's share of the cost of education depends on the type of establishment the children are attending.

274. At non-university levels, in the case of public-sector establishments and grant-aided private establishments, there is no reason for family expenditure to cover teaching activities per se, as these are covered by public funding, and families pay only for school supplies, school transport and the like. None the less, special grants are available for textbooks, school transport and meals at the compulsory levels. All other activities, such as remedial classes or extracurricular activities, are paid for entirely by the families. In the case of private non-grant-aided establishments, the families defray all the costs of schooling.

275. At the university level, the private universities do not have the possibility of concluding financial agreements with the education authorities, and so the students defray all the costs of education at this level. The fees for each course and year are set by each establishment.

276. Table 23 shows the distribution of private expenditure on education among the various levels.

Table 23

Private expenditure on private education*, 1991

LEVEL AND TYPE	AMOUNT	PERCENTAGE OF TOTAL EXPENDITURE
Prior to first level	69 303	3.46
1st level	107 295	20.93
2nd level, 1st cycle	77 696	20.79
2nd level, 2nd cycle	124 492	6.61
3rd level	108 870	0.00
Special education		44.86
Adult education		0.00
Other types of education	167 064	0.00
Other unspecified educational programmes	29 639	0.00
Total	684 359	10.22

Source: Planning Office (MEC).

Note: Scholarships and grants from public sources have not been deducted.

* In millions of pesetas.

6. Situation of teaching staff

(a) Initial training

277. Preschool and primary teachers must possess a teacher's certificate (they were previously known as teachers of basic general education or primary school teachers). To obtain this qualification, three years of specific university studies are required, choosing from among the following subjects: preschool education, primary education, foreign languages, physical education, musical education, special education, speech therapy and language. The syllabus calls for between 20 and 30 teaching hours a week, and includes student teaching in preschool or primary education establishments.

278. Qualification as a secondary-school teacher requires possession of a degree (doctor, licenciado, engineer or architect) and a teaching certificate, the CAP. This is a certificate of professional competence awarded upon completion of a teacher-training course of at least one academic year, including a period of student teaching.

279. To be a specific vocational training instructor at the higher level requires the above-mentioned qualifications, while at the intermediate level, qualification as a diplomado, technical architect or technical engineer is required, along with the CAP.

280. The initial training of arts-education teachers depends on the subject to be taught. For music, dance and drama, a degree (doctor, licenciado, architect, engineer or equivalent) is required at all levels, as well as such teaching qualifications as may be established. For the plastic arts and design, teaching requires the qualifications appropriate to each specific training cycle. Thus, the teacher must be in possession of a degree (doctor, licenciado, architect, engineer or equivalent) or qualification as a diplomado, technical architect or technical engineer, as appropriate.

281. Teachers of foreign languages at official schools must hold a degree (doctor, licenciado, architect, engineer or equivalent).

282. The minimum qualifications for university teaching, in accordance with the University Reform Act and the academic categories existing in public universities, are as follows:

> For senior university professors, full university professors and senior university college professors: doctorate;
>
> For full professors and university college assistants: licenciado, higher degree in architecture or engineering;
>
> For faculty and higher technical school assistants: licenciado, higher degree in architecture or engineering, completion of all doctoral studies, and two years of research.

(b) Access to the teaching profession

283. Access to the teaching profession requires, in the first place, that the above-mentioned initial training requirements for each level be met. Then there are different selection processes for the public and private sectors.

(i) Non-university levels

284. In order to teach in public-sector establishments, candidates are required to pass a competitive public examination, organized by the MEC in its area of competence, and by the Autonomous Communities within their areas of competence. In this selection process, after passing the relevant tests, candidates must complete a period of student teaching, after which they acquire civil-servant status.

285. The LOGSE establishes the categories of teachers at non-university levels. In the general education system these are primary teachers, secondary teachers and technical vocational training staff. In the special education system they are: music and performing arts teachers, senior music and performing arts teachers, plastic arts and design workshop teachers, senior plastic arts and design teachers, and official language school teachers.

286. Regarding the labour contract as a form of access to the teaching profession in the public sector, such access is available only when there is a specific need to fill temporary vacancies immediately.

287. Teachers in private schools are considered to be contractual employees of a company, which entails important differences as to rights and duties in general. Access has been governed since 1980 by Act No. 8/1980 of 10 March 1980, the Workers' Statute. What is involved is a work contract which expresses the free will of the parties, and that in turn determines the relationship between the teacher and the head of the educational establishment. In order to be recruited the teacher must possess the minimum teaching qualifications and complete a probationary period of four months.

288. In 1985, the LODE made a significant change in the system of recruitment of teachers in private grant-aided establishments, requiring that vacancies in such establishments must be publicly advertised. Furthermore, the selection of teaching staff does not depend only on the head of the establishment but is also subject to an agreement between the head and the school board. 4/

(ii) University levels

289. Access to teaching posts in public universities is regulated by Royal Decree No. 898/1985 of 30 April 1985, relating to the university teaching system. Under that Decree, university teaching appointments will be effected by the University Rector, who organizes a competitive examination on which the appointment is based.

290. At the request of the university or a public body, rectors may grant teachers renewable secondments for one academic year. In addition, the universities may give temporary contracts, full-time or part-time, as associate professors to specialists of recognized competence who habitually undertake their activities outside the university setting. Similarly, visiting professors may be given temporary contracts under the conditions established by the university statutes.

291. In the private universities, teaching appointments are made through a work contract, as at non-university levels.

(c) Continuing training

292. In teacher-training programmes an attempt is made to adapt training plans to the demands deriving from the implementation of the LOGSE.

293. In the public sector, the training model and assistance granted for the professional development of teachers have been in keeping with the thrust of the proposals by the education authorities and teachers, based on the 1989 Framework Plan for Teacher Training. The annual plan for continuing training is then drawn up, covering the provinces within the MEC area. Continuing training is among the responsibilities transferred to the Autonomous Communities.

294. In the area covered by the MEC and in some of the Autonomous Communities, the institutions responsible for the continuing training of non-university

teachers have been the Teachers' Centres (CEPs). The universities, through the Education, Sciences Institutes (ICEs), 5/ have also collaborated in this process, and private institutions organize courses, seminars and summer schools.

295. In order to give adequate support for the teaching establishments, supplement the functions of the CEPs and the Resource and Support Service Centres, and derive the greatest benefit from resources by coordinating all the external support services, it has been decided to merge and integrate the two networks, thereby furthering and improving the performance of their designated functions.

296. With respect to the various training activities, in the annual plans for the academic years 1991/92 and 1992/93, one of the basic principles has been defined as promoting better quality standards, through an improvement in procedures for the design, organization and assessment of activities and on the publication of multi-media support materials for the principal courses.

297. An attempt has been made to improve the quality of activities through:

(a) Preparation of materials adapted to the needs of each programme;

(b) Broadening the scope of certain training activities;

(c) General assessment of training activities.

298. The range of activities is geared to the number of teachers in the target group. Thus, approximately 48 per cent of activities would be intended for preschool/primary teachers, 31 per cent for secondary teachers and 21 per cent for other groups.

299. Concerning cooperation with other institutions on continuing training, various channels may be mentioned. Among them is cooperation with universities, with a total of 54 activities during the academic year 1992/93. Another possible form is cooperation with private non-profit institutions, with which 42 agreements have been signed. The granting of financial assistance is another possibility, of which the pedagogical renewal movements and summer schools in particular have availed themselves.

300. The Autonomous Communities with responsibility for education matters are called upon to organize continuing training and further training for teachers. Some of them have adopted models similar to that of the MEC for continuing teacher training, creating their own centres, or have utilized other mechanisms through the ICEs and other institutions.

(d) Working conditions

301. Several factors influencing the working conditions of teaching staff bear mention. These conditions are closely tied to the current reform of the education system. Improvements in other factors, such as pay, working hours, vacations, student/teacher ratio, curricula and their component stages, and participation in and management of the education community, are accompanying the implementation of the LODE and the full development of the LOGSE.

302. Another factor which has an impact on teacher's working conditions is the status of the educational establishment concerned (public, grant-aided, private or non-grant-aided private).

(i) Statutory contractual provisions governing working conditions

303. The civil service statutes in the public sector and contractual provisions in the private sector essentially determine the working hours, job security and vacations of teachers.

304. In non-university public establishments, as for all other civil servants, the working week is 37 and a half hours. Of this, 30 hours must be spent in school, either as teaching hours or supplementary hours. Teaching hours are considered to be those in which the teacher is directly involved with the pupils in the classroom. For preschool/EGB and early childhood/primary teachers, the figure is 25 hours; for intermediate education teachers, it is 18, although it may increase to 21 to accommodate scheduling requirements. To make up the 30 hours of mandatory presence in school, the supplementary hours are used, among other purposes, for tutoring and counselling students, teachers' meetings, evaluation sessions and participation in meetings of school bodies. The times when presence at the school is not compulsory are used for the preparation of lessons, professional upgrading and other duties.

305. If there is no full-time post in his or her subject in one school, the teacher may choose to make up a full day by teaching at another school or teach related subjects.

306. The working hours of university teachers depend on their conditions of employment, which may be full time or part time. The full-time working week is 37 and a half hours, broken down into teaching activities, research, and departmental, management and administration. The part-time schedule depends on the teachers teaching obligations.

307. In private education at the preschool/EGB, early childhood/primary and intermediate levels teachers work a 32-hour week, during which they must be present at school and which is broken down into 28 hours of teaching and 4 hours of extracurricular activities. However, under the Eighth Collective Agreement on Private Education, as from the beginning of the school year 1992/93 in grant-aided establishments the working week at the above levels has been reduced to 30 hours, 25 of which are classroom time and 5 extracurricular activities, on account of the difference that existed with respect to the public sector.

308. In universities, the maximum number of working hours is as follows:

(a) Full-time posts: 40 hours per week, 9 of which are for preparation and 19 in direct contact with students (teaching and tutorials). The remainder of the time is taken up by administrative and other university activities;

(b) Three-quarter and half-time posts: 30 and 20 hours per week respectively; part-time posts; working hours are determined by each university.

309. For social-security purposes, teachers in the public sector come under the regime for State employees within the special social-security regimes. Private teachers, like other workers, come under the general social-security regime.

(ii) Rights and duties of teachers

310. The Constitution grants teachers the right to academic freedom, the right to join a trade union and the right to participate in the supervision and administration of State-funded establishments. These rights are set out in the LODE, which also grants teachers the right of assembly in teaching establishments.

311. As the State sector is subject to the statutory civil service regime, it is also governed by a different set of provisions from those applicable to the private sector. Teachers are entitled to job security, and depending on the requirements of service, not to be transferred. Their other rights include the right to selection and filling of posts on the basis of merit and ability, the right to be paid in accordance with the category to which they belong, and the right to paid holidays, other special leave and leave of absence.

312. Teachers in the private sector are subject to the regulations governing labour contracts set out in the Workers' Statute, in the sectoral collective agreements and in the labour contract. Their rights include the right to an open-ended contract and to voluntary separation, paid holidays, other special leave, leave of absence, a pension and social security. In addition, they are entitled to take part in the administration of the establishment if they teach in grant-aided establishments.

(iii) Conditions for promotion

313. Teachers' promotion is determined by a combination of administrative, professional and work-related conditions and circumstances involving merit, ability, seniority and selection. These include their initial training, entry into the profession, continuing training, administrative and professional status, and salary.

314. In accordance with Act No. 30/1984 of 2 August 1984, the authorities are required to facilitate the promotion of State employees from lower categories to the higher categories, provided they possess the requisite qualifications, have been at their current level for at least two years and pass such tests as the State Administration may decide to set.

315. Subsequent to the LOGSE, Royal Decree No. 575/1991 established regulations concerning movement between the new categories of the teaching profession established by the Act. In order to apply for promotion teachers must undergo a selection procedure involving an assessment of merit (based on the standard of their work and training courses taken) and prepare a presentation on a topic related to their chosen subject area.

316. In addition, participation in continuing training activities is taken into account for the purposes of promotion. Subsequent to a Ministerial Order dated 26 November 1992, teachers who furnish evidence, every six years, of

having participated in at least 100 hours of training are entitled to a salary increase. Such participation is also taken into account in the consideration of candidates for promotion within the various categories of civil servants.

317. Pursuant to the LODE (1985), major changes were made in the conditions of access to administrative posts in schools. In public establishments, the head is chosen by the School Board and in private grant-aided establishments by agreement between the School Board and the owner of the establishment. The other administrative staff (secretary and deputy head) are appointed by the School Board on the recommendation of the head and must, like the head, be permanent members of the school's teaching staff.

318. Another possibility for promotion in the teaching profession is appointment to the post of inspector. Act No. 23/1988 of 28 July 1988, amending Act No. 30/1984, laid down a new procedure for the appointment of inspectors, requiring inspectors to be State teachers, to have obtained a doctorate, degree or engineering or architectural qualifications, to have taught for at least five full academic years (seven in the MEC area) and to know the other official language in those Autonomous Communities where there is one.

(iv) Salaries and allowances

(a) Teachers in the public sector

319. Teachers' pay is determined each year by the general State budget. Article 23 of Act No. 30/1984 of 2 August 1984, relating to measures for the reform of the civil service, determined the pay structure of civil servants, which is made up of basic remuneration and allowances. The basic remuneration is composed of the following: base salary, corresponding to the graded index assigned to each group into which the branches of the profession, scales, classes or categories are subdivided; the triennial increments and two bonuses. The allowances consist of: the extra allowance, corresponding to the level of post held and determined annually; the specific allowance, reflecting the particular characteristics of certain posts; the productivity allowance, which rewards outstanding performance; and bonuses for exceptional services.

320. This salary structure is the same for all civil servants within the same group, depending on their qualifications. Pursuant to Act No. 30/1984:

(a) There are 30 steps for civil servants, graded in accordance with the degree of responsibility entailed by the duties performed;

(b) The various branches of the civil service are divided into the following grades:

  (i) Group A: civil servants with a doctorate, licenciatura, degree in architecture or engineering or equivalent qualification;

(ii) Group B: those with an Ingeniero Técnico, Arquitecto Técnico, Diplomado universitario, higher-grade vocational or equivalent qualification;

(iii) Group C: those with a Bachiller, intermediate-grade vocational or equivalent qualification;

(iv) Group D: those with the School Certificate;

(v) Group E: those with the Education Certificate;

(c) Scales of remuneration are set out.

321. On 20 June 1991, an agreement was signed between the MEC and the trade unions to improve the quality of teaching and to promote the attainment of the objectives of the educational reform. It was decided to encourage teaching staff by improving their remuneration, while partly linking increases to their participation in refresher courses.

322. The decision by the Council of Ministers of 11 October 1991 regulated teachers' allowances. An innovation was the introduction of a third component reflecting the number of six-year periods served by teachers, although receipt of this allowance is linked to participation in refresher courses or to research or innovation activities for varying periods. This component has applied since October 1992.

323. At the university levels, Royal Decree No. 1086/1989 of 28 August 1989, introduced a number of changes in teachers' salaries in order to encourage teaching and research activities. Two new components were incorporated into the specific allowance, linked to teaching ability and productivity in full-time posts, on a five-year basis in the case of teaching and on a six-year basis in that of research.

(b) Teachers in the private sector

324. Teachers' salaries are regulated by the various annual collective agreements. It is necessary to distinguish between the grant-aided and non-grant-aided areas of the private sector, which are governed by separate agreements. Remuneration is made up of the base salary and allowances (status, seniority and transport), triennial increments and special bonuses.

325. Teachers in the private sector earn lower salaries and teach more hours than their colleagues with equal duties in the public sector. However, as indicated in paragraph 307, under the Eighth Collective Agreement on Private Education, their working week has been shortened to 30 hours.

Table 24

Teachers' remuneration (pesetas per month), 1992

	Base salary	Triennial increments	Allowances
State establishments			
Group A	139 285	5 346	Table 25
Group B	118 215	4 278	Table 25
Grant-aided private establishments*			
Preschool teachers	124 700	4 016	28 664
Tenured EGB teachers	124 700	4 254	28 664
Tenured BUP teachers	145 000	5 337	25 530
Tenured FP.I teachers	130 200	4 094	27 351
Tenured FP.II teachers	142 300	5 134	26 241
Non-grant-aided private establishments			
Preschool teachers	132 316	3 589	19 685
Tenured EGB teachers	132 316	3 589	19 685
Tenured BUP teachers	139 126	4 498	20 242
Tenured FP.I teachers	131 323	3 447	19 814
Tenured FP.II teachers	136 297	4 330	20 168

Source: Data derived from State Schools Council (1993), "Informe sobre el Estado y situación del Sistema Educativo. Curso 1991/92", Madrid, MEC.

Note: No comprehensive data are available for arts and languages teaching in private establishments. They vary widely depending on the type of establishment and course.

* These data are for 1991.

326. The salaries of teachers in grant-aided establishments are paid from the general State budget. They are paid directly by the Administration to teachers, payment being made in the name of the head of the establishment, who remains the employer. Remuneration levels are set by the framework agreements for teachers in the private sector at their respective levels. Under the

1988 Basic Agreement on Salary Scales for Teaching Staff between the Administration and trade unions, the salaries of teachers in grant-aided private establishments were to have been brought to within about 95 per cent of salaries of teachers in the State sector within six years. However, in 1992 their salaries were below the targeted percentage of the salaries of teachers in the State system at the same level.

Table 25

Allowances in State establishments (pesetas per month)

	From	To
Extra allowance	59 759	88 149
Specific allowance		
General 1/	24 375	30 621
Individual 2/	8 287	79 323

Source: Data derived from State Schools Council (1993) "Informe sobre el Estado y situación del Sistema Educativo. Curso 1991/92", Madrid, MEC.

Note: The amount of the allowances differs depending on the post for which they are paid (head, director of a seminary, etc.).

1/ For a teaching post in the State sector and depending on the level of the extra allowance.

2/ For administrative functions performed by one person or similar posts.

7. Problems and difficulties encountered in developing the right to education in Spain; prospects for a solution in the future

327. In recent years, the progress made towards fulfilment of the right to education in Spain, has been far more noteworthy than any obstacles encountered.

328. The educational reform initiated with the LOGSE in 1990 is intended to ensure full, compulsory and free schooling for all children aged from 6 to 16. However, some of the reform's other objectives, such as, for example, the new structure of teaching levels, the far-reaching changes in vocational training, the new criteria for curriculum design, the change in the qualifications required to teach at the different levels or the reorganization of the branches of the teaching profession in the State sector, point to its emphasis on quality. Thus, the future of education focuses not only on education for all, but on an education that provides sufficient guarantees in terms of quality.

329. It would, however, be presumptuous to deny that there are difficulties in achieving the aims of the reform. None the less, these difficulties have to be tackled not as insurmountable obstacles but as stimulating challenges from

which to address the future. For example, the gradual introduction of the new phases of education entails corresponding adjustments in the organization of establishments at the different levels, which requires rigorous and exhaustive planning of all available human and financial resources. Furthermore, the changeover from the old structure to the new has to be carefully harmonized with the groups involved so as not to jeopardize any of their rights or interests.

330. In addition, to provide a quality of education it is necessary first of all to fulfil the primary objectives of education, comprising not only the acquisition of knowledge but also the full training of pupils to enable them to behave as responsible and caring citizens, by developing their sense of values. Secondly, it means offsetting inequalities and devoting special efforts to the schooling of pupils who run the greatest risk of failing and are least likely to continue beyond compulsory education.

331. Other factors that are considered essential in improving quality include greater educational, financial and administrative autonomy for teaching establishments, efficient management and the active participation of all members of the school community (pupils, parents, teachers and non-teaching staff) in developing its own educational project, together with the evaluation of the education system.

332. Finally, the reform's commitment to an education system that is better adjusted to the social environment and to each pupil's characteristics requires changes in the content and methods of teaching, in the definition of new curricula, in the development of teaching materials and in the training of teaching staff, without whose active participation and constant retraining a quality education would be impossible.

333. All the points mentioned in the above paragraphs determine prospects for the coming years, during which it will be necessary to continue activities already initiated and to begin others in order to implement and develop the LOGSE. As regards the development of legislation, the introduction of the regulations concerning vocational training diplomas, which has been carried out mainly during the current academic year 1993/94, means that the regulatory framework for the new courses may be considered virtually complete.

334. Completion of the process of the universal establishment of primary education, together with the increase in the number of schools providing the second cycle of preschool education and those which prepare for compulsory secondary education, and completion of the introduction of the new versions of the Bachillerato, are among the targets set for attainment within no more than three years.

335. In conjunction with this, the MEC has proposed a series of measures covering various spheres and intended to improve the quality of the education system:

(a) Teaching a sense of values, by training teachers to teach moral and civic values and other subjects across the curriculum that are related to such values;

(b) Equality of opportunity and remedying of inequalities, by giving priority to pupils with special educational needs or from ethnic and cultural minorities, rural areas or socially underprivileged areas, and by providing the establishments that teach them with greater human and material resources.

(c) The autonomy and organization of establishments, by providing them with greater autonomy in the areas of teaching and financial, administrative and personnel management, encouraging the active participation of the entire educational community and fostering cooperation with local authorities in developing close relations between them and their sociocultural environment;

(d) The management and administration of establishments, through the assignment of greater competence, responsibility and training to the heads of schools and their staff, so as to achieve greater efficiency, and stimulating the democratic functioning of collegiate bodies, ensuring maximum participation;

(e) Teaching staff, involving a series of measures designed to facilitate their initial and continuing training, improve their working conditions and define their career prospects; these measures should contribute towards greater job satisfaction for teachers, which is essential to improve the quality of teaching;

(f) Assessment and inspection of the education system, through the introduction of a new model that permits a better understanding and assessment of the system as a whole and of each of its components, with the aim of contributing towards the introduction of timely improvements.

8. International assistance in promoting the right to education

336. Spain participates in various international education programmes. However, it cannot be said that it receives international assistance in order to give effect to the right to education, inasmuch as compulsory education is free of charge and the public and private funds intended for education are adequate to meet the actual demand for education.

337. However, through the international programmes in which it participates, Spain has the opportunity to develop its training potential, improve inter-cultural relations with neighbouring countries and strengthen cultural links with those nations with which it has a common tradition and history.

338. Spain participates in the following UNESCO programmes: Towards Basic Education for All, work in connection with the International Commission on Education for the Twenty-First Century, the UNITWIN/UNESCO Chairs Programme, the programme on innovation, training and teaching material for educational innovation in Africa (IFOMA). The MEC, has set up a cooperation programme for Latin America and the Caribbean for the period 1993-1996.

339. In OECD, Spain cooperates with the Education Committee and the OECD Centre for Educational Research and Innovation (CERI).

340. Within the European Union, Spain participates in the following programmes: LINGUA COMMETT, ERASMUS, ARION, the teacher exchange programme, TEMPUS, PETRA, the multilateral school interaction programme, education for the children of immigrant workers, Gypsies and itinerants, and the HORIZON, NOW and MENTOR programmes.

341. Within the Council of Europe, Spain has concentrated its participation on the following programmes: language learning and European citizenship, Europe Day in educational establishments, secondary education for Europe, European dimension of education and fellowships for teachers.

342. Cooperation in education with the Ibero-American countries has been effected through various channels.

343. Within the Organization of Ibero-American States for Education, Science and Culture (OIS), Spain provides technical assistance and cooperates in financing various programmes. Following the second summit of Ibero-American States, the Ibero-American Educational Television (TEI) Users' Association was set up, and Spain supports basic adult literary programmes and the award of fellowships for postgraduate studies. Other institutional programmes in which Spain participates include the Programme of educational cooperation with Ibero-America and the Programme of Scientific Cooperation with Ibero-America.

344. Lastly, the Andres Bello Agreement is used to finance various programmes in the areas of education and science and technology.

345. International cooperation activities in bilateral relations derive from the implementation of the agreements in force with the various countries; they are supervised and followed up in the Joint Commissions, which are held alternately in each of the two signatory countries.

E. Article 15

346. It should be made clear that, as in neighbouring countries, cultural life in Spain develops freely and spontaneously in the context of civil society. The public authorities ensure that no one interferes in the exercise of the rights and freedoms guaranteed by the Constitution to Spanish citizens when they engage in the various forms of cultural activity.

347. The public authorities also take steps, by constitutional mandate, to ensure that cultural property is accessible to everyone, and conduct what amounts to a cultural "development" policy (by subsidizing initiatives, awarding prizes, providing fiscal incentives, guaranteeing soft loans, etc.), but the fact remains that cultural life takes place in the private context of civil society.

348. This part of the report describes the action of the public authorities in relation to cultural life in Spain and indicates the cases in which they act as "cultural entrepreneurs".

349. Mention should also be made of the diverse bodies which the present Spanish Constitution classifies as public authorities - the Central Administration, the Autonomous Communities and the municipalities. Each of

these bodies carries out its own cultural policy within its own jurisdiction, and invests considerable resources in that activity. This part of the report will describe only the cultural activity of the Central Administration, which is channelled through the Ministry of Culture and a number of organizations which, although directly attached to the Ministry, enjoy a degree of independence.

350. It should be emphasized that although different cultures, which have their expression in different languages, coexist in Spain, the terms "majority cultures" and "minority cultures" cannot be used in a legal sense, since whether or not they cover a large area, all are recognized in the Constitution and have identical legal status.

351. Together with the indigenous Spanish cultures referred to above, groups of immigrants from the Maghreb and various African States have also recently coexisted in Spain, their problems are basic and pressing and take precedence over the legitimate concern to maintain and develop their own cultural identity. The Ministry of Justice and the Interior, the Ministry of Social Affairs and the Ministry of Labour are attending to these problems, together with a large number of private religious, charitable and cultural organizations. The novel and undefined nature of the phenomenon means that no ad hoc cultural policy has yet been drawn up, although it will have to be planned in due course, in conjunction with international organizations and with the Governments of the States of origin of the immigrants.

352. This is not intended to be a report on Spanish cultural life in 1992 and 1993, nor does it give statistical details. The idea is rather to testify to the fact that during these years the Spanish Government remained attentive to the dual mandate of the Spanish Constitution with reference to culture: to defend the rights and freedoms of the Spanish people in the exercise of cultural activity, and to maintain and improve the means and services designed to make all the benefits of culture accessible, while at the same time meeting Spain's international commitments in this regard.

353. In some sections, in order to avoid repetition, a comprehensive reply is given under the various headings. 6/

1. Legislative and other measures adopted by the Government for the realization of the rights of everyone to take part in the cultural life that he considers relevant and to express his own culture

354. The subject of culture is dealt with at length in the current Spanish Constitution (1978). The main provisions on the subject are to be found in the Preamble, the Preliminary Title, Title I and Title VIII.

In the Preamble, the Constitution proclaims the will to:

"... protect all Spaniards and peoples of Spain in the exercise of human rights, their cultures and traditions, languages and institutions" (third para.); later, it undertakes to "promote the progress of culture and the economy to ensure a decent quality of life for all" (fourth para.).

355. The Preliminary Title recognizes and guarantees the right to self-government of the nationalities and regions which comprise the Spanish Nation. It establishes that the indigenous languages shall be official on an equal footing with Spanish in each Autonomous Community and states that: "The wealth of the different language forms in Spain is a cultural heritage which shall be the object of particular respect and protection" (arts. 2 and 3).

356. Title I devotes chapters II and III to this question.

Chapter II, under the heading "Fundamental rights and duties", refers to equality before the law (art. 14); freedom of ideology and religion (art. 16); and freedom of expression in all domains of the mind (art. 2).

357. In Title I, chapter III, under the heading "Concerning the governing principles of social and economic policy", the Constitution proclaims the following commitments on the part of the public authorities:

(a) To promote health education, physical education, sport and appropriate use of leisure (art. 43.3);

(b) To protect everyone's right of access to culture (art. 44);

(c) To protect the right to a decent environment and quality of life (art. 45);

(d) To preserve and protect the enrichment of the historical, cultural and artistic heritage of the peoples of Spain and the property of which it consists, irrespective of its legal status and ownership (art. 46).

358. As can be seen, the Constitution identifies two types of rights as two groups in different chapters: rights which may be termed "immunity rights" (chap. II) and rights which the Constitution refers to as "social rights or benefit rights" (chap. III).

359. In the first case the freedom of initiative of each citizen is guaranteed in the face of possible interference by other citizens or possible abuse by the public authorities. The second case reflects genuine commitments by the public authorities to create the institutions and raise the necessary resources, within the possibilities of the current economic situation, to make cultural property accessible to all Spaniards.

360. Lastly, a very detailed practical description of institutions and principles relating to the cultural pluralism proclaimed in the Preamble and in the Preliminary Title of the Constitution is given in Title VIII ("Concerning the territorial organization of the State"), in which very broad responsibilities for culture are conferred on the various Autonomous Communities mentioned at the start of this report. The Spanish State is territorially divided into these Communities, on the basis of groups of neighbouring provinces "with common historical, cultural and economic characteristics" in some cases, or by granting certain individual provinces the status of an Autonomous Community.

361. This subject is discussed in detail in the document submitted as annex III.

2. Availability of funds to promote cultural development and popular participation in cultural life, including public support for private initiative

362. During the years 1991/92 and 1992/93, the Spanish Ministry of Culture allocated the following amounts for subsidies and aid to private initiative in cultural matters:

	Amounts of thousands of pesetas
Year 1992	
Chapter IV, Estimated expenditure	27 590 616
Year 1993	
Chapter IV, Estimated expenditure	29 328 870
Total	56 919 486

Table 26

FINANCIAL YEAR 1992

Breakdown by programmes of appropriations budgeted in chapter IV

FINANCIAL YEAR 1992		
PROGRAMME	DESCRIPTION	BUDGET (in thousands of pesetas)
451-A	Cultural administration and general services	20 214 665
134-B	Cooperation, promotion and dissemination of culture abroad	476 121
458-C	Conservation and restoration of cultural property	118 297
458-D	Protection of the historical heritage	0
452-B	Libraries	64 000
455-D	Promotion of books and cultural publications	774 036
455-C	Promotion of culture and cultural cooperation	800 497
456-A	Music	1 145 000
456-B	Theatre	405 000
458-C	Cinematography	3 593 000
TOTAL BUDGET		27 590 616

Table 27

FINANCIAL YEAR 1993

Breakdown by programmes of appropriations budgeted in chapter IV

FINANCIAL YEAR 1993		
ROGRAMME	DESCRIPTION	BUDGET (in thousands of pesetas)
451-A	Cultural administration and general services	21 314 526
134-B	Cooperation, promotion and dissemination of culture abroad	228 234
458-C	Conservation and restoration of cultural property	22 606
458-D	Protection of the historical heritage	14 850
452-B	Libraries	64 867
455-D	Promotion of books and cultural publications	954 155
455-C	Promotion of culture and cultural cooperation	841 500
134-B	Cinematography (cooperation and dissemination abroad)	200 258
456-C	Cinematography	3 625 818
134-B	Music (cooperation and dissemination abroad)	148 233
456-A	Music	1 229 812
456-B	Theatre	684 011
TOTAL BUDGET		29 328 870

3. The institutional infrastructure established to implement policies for promoting popular participation in culture, such as cultural centres, museums, libraries, theatres and cinemas, and in traditional arts and crafts

363. In Spain, the State Administration promotes popular participation in culture through the Ministry of Culture. This Ministry is governed by the following instruments: Royal Decree No. 565/1985 of 24 April 1985; RD No. 535/1985 of 27 May 1985; RD No. 727/1988 of 11 July 1988; RD No. 834/1989 of 7 July 1989; Act No. 4/1990 of 29 June 1990; Act No. 31/1990 of 27 December 1990; RD No. 1581/1991 of 31 October 1991 and RD No. 1816/1993 of 18 October 1993. For external cultural activity, the Ministry of Culture has the following departments:

(a) Directorate-General for Fine Arts and Archives, to which the Institute for the Conservation and Restoration of Cultural Property and the Queen Sofia National Museum Art Centre are subordinate;

(b) Directorate-General for Books and Libraries, to which the National Library is subordinate as a self-governing body;

(c) Directorate-General for Cultural Cooperation, responsible for international cultural cooperation and also for cooperation between the Ministry of Culture and other ministries, the Autonomous Communities and municipalities;

(d) The Ministry's Under-Secretariat includes among its responsibilities that of Protector of Cultural Foundations;

(e) The Technical General Secretariat has a Sub-Directorate-General for the protection of intellectual property.

364. The following independent bodies are also subordinate to the Ministry of Culture: The National Institute of Performing Arts and Music (INAEM); the Institute of Cinematography and the Audiovisual Arts; the Prado Museum.

365. In addition to this structure within the State Administration, Spain's 17 Autonomous Communities have cultural councils for the cultural activities for which they have sought responsibility in accordance with their statutes; some specialize in cultural matters, and others are associated with educational and scientific matters.

366. Lastly, the municipalities, particularly the largest, also have cultural councils and resources to promote and subsidize cultural activities.

367. The report for 1992 gives a detailed account of the action taken by the Ministry of Culture to promote popular participation in culture through museums, libraries, theatres, etc. (annex IV*).

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* May be consulted in the secretariat files.

368. The report for 1993 has not yet been published. "Acción Internacional 1993" (International Action 1993) may be consulted for advance information (annex V*).

4. Promotion of cultural identity as a factor in mutual appreciation among individuals, groups, nations and regions

369. Annex III, entitled "Report of the Ministry of Culture to the United Nations Committee on Economic, Social and Cultural Rights", sets out in detail the response of the Spanish Constitution to the question of coexistence between regions, which has caused conflict in Spanish life over the last three centuries.

5. Promotion of awareness and enjoyment of the cultural heritage of national ethnic groups and minorities and indigenous peoples

370. See, at the start of this chapter, the reference to recent groups of immigrants in Spain.

6. Function of the mass media in promoting participation in cultural life

371. In Spain the mass media are for the most part privately owned and managed.

372. Act No. 4/1980 of 10 January 1980 establishes the Radio and Television Statute.

373. Act No. 10/1988 of 3 May 1988 lays down standards for private television. The Spanish Ministry of Culture has no administrative competence over these sectors of the media.

7. Conservation and presentation of the Cultural Heritage of Mankind

374. Under the relevant Declaration of the Committee of the Convention for the Protection of the World Cultural and National Heritage, held in Santa Fe (United States of America) in December 1991, the Monastery of Poblet now forms part of the World Heritage.

375. In 1993, the initial steps were taken for the inclusion in the World Heritage of the Santiago pilgrims' way, the archaeological site at Mérida and the monastery of Guadalupe. It is hoped that they will be declared part of the World Heritage at the next meeting of the Committee of the World Heritage Convention in Cartagena de Indias.

376. The Ministry of Public Works is preparing an ambitious investment plan, totalling approximately 100,000 million pesetas, for the rehabilitation of historical and artistic sites to be carried out by the Ministry of Culture. In allocating appropriations priority will be given to sites which have been declared an integral part of the World Heritage.

8. Legislation protecting the freedom of artistic creation and expression, including the freedom to disseminate the results of these activities and indications of any restriction or limitation on that freedom

377. See in this connection the Spanish Constitution on the question of culture, both in the reply on article 15 and in the document submitted as annex III.

9. Education in the sphere of culture and art

378. Education in the sphere of culture and art in Spain comes under the Ministry of Education and Science, the Directorate-General for Educational Establishments and the Sub-Directorate-General for Art Education.

379. The Ministry of Culture organizes annually a large number of short refresher courses for its own personnel and sometimes open courses on cultural subjects - restoration of works of art, management of archives and libraries, aspects of the theatre, etc. - in collaboration with the Employment Institute. The latter courses are directly geared to the country's labour requirements.

10. Any other measure adopted for the conservation, development and dissemination of culture

380. The reply can be found throughout this report.

11. Legislative and other measures adopted for the realization of the right of every person to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic work of which he is the author; in particular practical measures to create conditions necessary for scientific, literary and artistic activities and the protection of intellectual property rights in the realization of this right

381. Act No. 20/1992 of 7 July 1992, amending the Intellectual Property Act (No. 22/1987) of 11 November 1987, endeavours to identify or define specific means of remedying the shortcomings which have been emerging after four years of practical implementation of the 1987 Act. The amendments contained in Act No. 20/1992 include responses to the following:

(a) The need to amend article 25 of the Act, which establishes the right to compensatory remuneration for private copying. It has been necessary to devise a mechanism to overcome the opposition of the sector required to pay the remuneration - manufacturers and importers of reproduction equipment and mediums. The new wording of this article makes provision for an agreement procedure freely established between the sectors affected, and failing that, the intervention of an expert appointed by the Ministry of Culture for purposes of conciliation and settlement. In 1992 and 1993, the so-called Agreement Negotiating Board, on which all the parties affected (creditors and debtors) are represented, held discussions to determine the amount of compensatory remuneration for private copying during the period 1 July to 31 December 1992. Partial agreements were reached during these negotiations for the gramophone and video recording sector, and for publications in book or similar form. Since agreement was not reached on all matters relating to compensation for private copying mediation decisions were reached determining remuneration for the period 1 July 1989 to 31 December 1992 (public instrument dated 9 July 1993);

(b) The introduction of improvements in the right of plastic artists to participate in the resale of their works (droit de suite), which is difficult to apply in practice owing to the lack of cooperation between art galleries and the artists.

382. The above-mentioned Act No. 20/1990 was further developed by Royal Decree No. 1434/1992 of 27 November 1992.

383. Royal Decrees Nos. 1584/1991 of 18 October 1991 and 773/1993 of 14 May 1993 have been issued approving the regulations relating to the General Register of Intellectual Property. They regulate the procedure for registration of intellectual property rights, and the structure and operation of the Register.

12. Legal, administrative and judicial system to ensure respect for and protection of the freedom indispensable for scientific research and creative activity

384. With regard to creative activity, in the sense of artistic or cultural activity, cultural rights are all covered in Title I of the Spanish Constitution, but are grouped in two separate chapters, chapters II and III.

385. Just as these rights are grouped according to their different nature, the procedure or type of guarantee which the Constitution accords them is also different.

386. In chapter II, the following rights relating to culture are contained under the heading "Rights and freedoms":

> "Article 20
>
> 1. The following rights are recognized and protected:
>
> The right to express and disseminate freely thoughts, ideas and opinions orally, in writing or by any other means of reproduction;
>
> The right of literary, artistic, scientific and technical production and creation ...".

These rights receive maximum protection from the Constitution because:

(a) They are binding on all public authorities (art. 53.1);

(b) They must be regulated by law, which shall respect "their essential content" (art. 53.1);

(c) Any citizen may assert a claim to their protection in the courts of justice by means of a procedure based on the principles of preferential and summary action (art. 53.2);

(d) A remedy of amparo in respect of these rights may be filed with the Constitutional Court (art. 53.2);

(e) The People's Advocate may also be appointed to defend them (art. 54);

(f) The constitutional revision of these articles must be approved by a two-thirds majority of each Chamber.

387. Chapter II, section 2, contains article 34, which in practice affects cultural activity to a considerable extent. It recognizes the right of foundation for reasons of general interest, in accordance with the law. The provisions of article 22.1, paragraphs 2 and 4, also govern foundations.

388. This right enjoys the protection referred to in paragraph 386 (a), (b) and (c) above.

389. A bill on cultural foundations has been submitted and was published in the Boletín de las Cortes (Parliamentary Gazette) of 7 December 1993.

390. Article 22.2 of the Constitution stipulates that:

> "Associations which pursue ends or use means classified as offences are illegal."

Article 22.4 stipulates that:

> "Associations may only be dissolved or have their activities suspended as a result of a reasoned judicial decision."

391. In chapter III of the Constitution, under the heading "Concerning the governing principles of social and economic policy", the following rights are recognized in respect of cultural activity:

> Article 44.1: The public authorities shall promote and protect access to culture, to which all are entitled.
>
> Article 46: The public authorities shall guarantee the conservation and promote the enrichment of the historical, cultural and artistic heritage of the peoples of Spain and the property of which it consists, regardless of its legal status and ownership. Offences against this heritage shall be sanctioned by criminal law.
>
> Article 43.3 refers to the promotion of physical education, sport and the appropriate use of leisure, the administrative aspects of which in Spain are the responsibility of the Ministry of Education and Science.

Articles 48 and 50 refer to the participation of young people and the elderly in culture; however, the State's policies concerning young people and the elderly are now within the competence of the Ministry of Social Affairs.

392. As may be seen, these are benefit rights which are only protected by the People's Advocate (para. 386 (e)), although their recognition, observance and protection "shall be a part of positive law, judicial practice and the acts of the public authorities"; they may therefore "only be pleaded before the ordinary courts in accordance with the provisions of the laws which give them effect".

393. The Spanish Historical Heritage Act (No. 16/85) of 25 June 1985 specifically concerns the subject-matter of article 46 (historical heritage).

13. Legislative and other measures whereby the Government maintains and develops international contacts and collaboration in scientific and cultural matters, including the measures adopted with a view to:

(a) The fullest use, by all States concerned, of the facilities obtained through accession to conventions, agreements and other regional and international instruments in the scientific and cultural spheres

(b) The participation of scientists, writers, artists and other persons involved in scientific research or creative activities, in conferences, symposiums, seminars and other scientific, cultural and international events

394. Please consult the report of the Ministry of Culture (annex IV) and Actividad Internacional 1993 (annex V).

14. Changes in national policies, laws and practices which adversely affect the rights set out in article 15. Description of changes and their repercussions

395. On 15 February 1994, the Supreme Court of Spain asked the Constitutional Court for a ruling on the constitutionality of five points of the Linguistic Standardization Act of Catalonia, referring to the implementation of this Act in the field of education.

396. The order of the Supreme Court originated in a dispute between the CADECA (Coordinating Body of Affected Persons in Defence of Castilian Spanish) and the Generalitat (Government) of the Autonomous Community of Catalonia. CADECA challenged Decree No. 362/1983 of the Generalitat's Department of Education. The Audiencia found in favour of CADECA and the Generalitat appealed against that decision to the Supreme Court, which, by order, applied to the Constitutional Court in view of the serious doubt whether five points of the Standardization Act were constitutionally correct. Public opinion is following the case with increasing interest.

Notes

1/ State body responsible for ordering, coordinating, planning, proposing and advising in the field of higher education. It comprises the Minister of Education and Science, the officials in charge of university education in the Autonomous Communities, rectors of public universities and 15 persons of recognized reputation in the field of higher education and science.

2/ Studies not leading to official degrees.

3/ Administrative body whose main functions are to approve the budget and supervise the financial activities of the university.

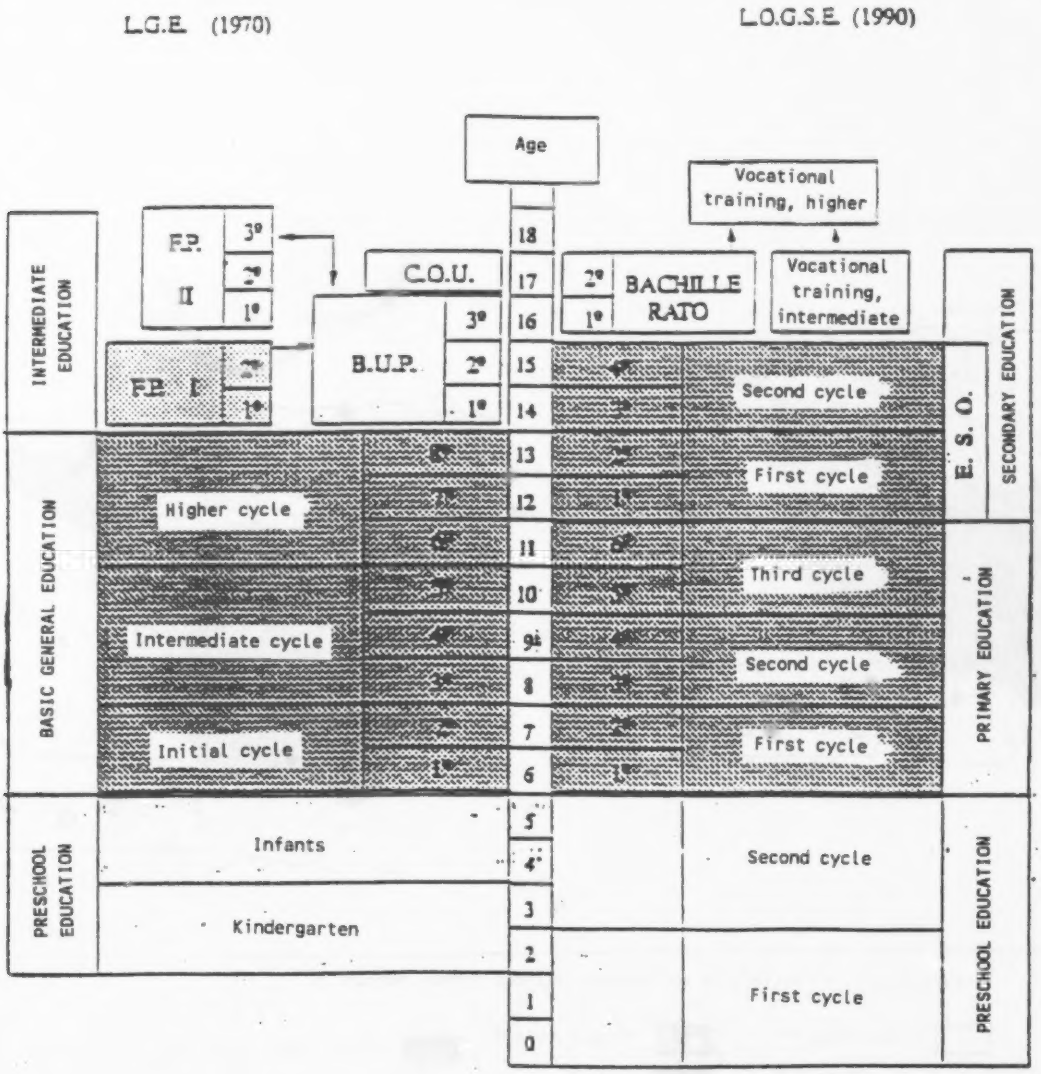
4/ A collegiate governing body of public-sector schools and private grant-aided schools comprising the various members of the community who make up the school in question (head, teachers, parents, students, education authority officials, etc.).

5/ University institutions engaged in educational research which, among other functions, offer teacher-training courses.

6/ On the occasion of the second periodic report of the Government of Spain, a study of culture in the Spanish Constitution was submitted and is attached to this report (annex III).

Annex I

Structure of the education system

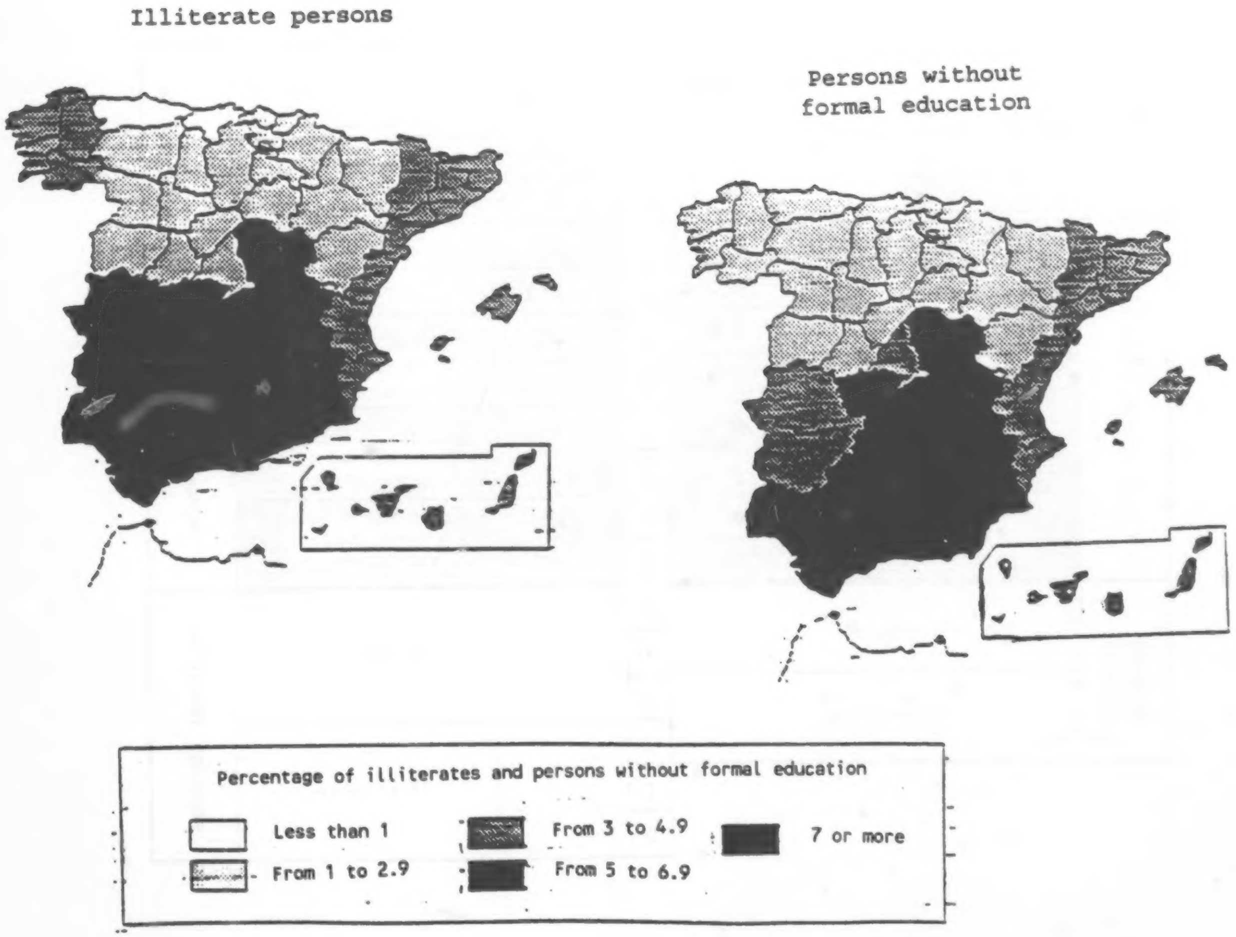

L.G.E. (1970)
L.O.G.S.E. (1990)
Age
Vocational training, higher
Vocational training, intermediate
INTERMEDIATE EDUCATION
F.P. II
3°
2°
1°
C.O.U.
B.U.P.
F.P. I
BACHILLERATO
BASIC GENERAL EDUCATION
Higher cycle
Intermediate cycle
Initial cycle
PRESCHOOL EDUCATION
Infants
Kindergarten
18
17
16
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1
0
Second cycle
First cycle
Third cycle
E. S. O.
SECONDARY EDUCATION
PRIMARY EDUCATION

▩ Compulsory education levels.

░ Compulsory level for pupils who do not obtain the School Certificate.

Annex II

Illiterate persons and persons without formal education, by Autonomous Communities (1991)



Illiterate persons

Persons without formal education

Percentage of illiterates and persons without formal education
Less than 1
From 1 to 2.9
From 3 to 4.9
From 5 to 6.9
7 or more

Source: INE (1992), Sociodemographic survey, 1991, Madrid.

Annex III

REPORT OF THE MINISTRY OF CULTURE TO THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

December 1990

INTRODUCTION

The Spanish Constitution of 29 December 1978 as a framework for the cultural policies which the public authorities may put into effect

The reasons for the necessary reference to the Spanish Constitution, even though it preceded submission of the 1982 report, are as follows:

In the analysis of cultural policy over the past 10 years, the all-important fact that a political breakthrough has taken place with the transition from an authoritarian State to a democratic State cannot be ignored. The Spanish Constitution of 1978 is the framework which establishes how the new democratic public authorities function.

The 1978 Constitution devotes unusually full attention to cultural matters, establishing numerous and detailed provisions.

It endeavours to provide a new approach and original solutions to the old and difficult problem of cultural pluralism in Spain.

The concept of culture in the Spanish Constitution of 1978

This concept is expressed in two basic forms, one of an ethnic and anthropological character and the other general in character.

The anthropological form is to be found in the Preamble, which proclaims the will of the Spanish nation "to protect all Spaniards and peoples of Spain in the exercise of human rights, and their cultures, traditions, languages and institutions", and in article 46, which concerns the cultural heritage: "the public authorities shall guarantee the conservation and promote the enrichment of the historical, cultural and artistic heritage of the peoples of Spain ...".

The Constitution therefore recognizes the existence in Spain of a number of distinct cultural communities, and takes this as one of the essential features defining the concept of territorial communities which may set themselves up as Autonomous Communities and accede to self-government (art. 143.1).

The general form exists in the Preamble, the fifth paragraph of which states that it is the will of the Spanish Nation "to promote the progress of culture and the economy"; in article 44; "the public authorities shall promote access to culture, to which all persons are entitled"; and in article 9.2 which entrusts to the public authorities the task of enabling all citizens to participate in "political, economic, cultural and social life".

It can also be found with reference to specific social groups: young people (art. 48), prisoners (art. 25) and the elderly (art. 50).

The higher principles of the cultural Constitution

A. Principle of cultural freedom and free development of the personality

The guarantee of the free development of culture is expressly sanctioned in article 20, which governs freedom of expression and, specifically, the freedom of "literary, artistic, scientific and technical production and creation" (para. 1 (b)).

The provision establishes the right protected as two activities (production and creation) and as typical expressions of those activities (artistic, literary, scientific and technical).

While creation is the act of cultural innovation by individuals and groups, production refers to the result of this creative activity in the language of the law as "intellectual property".

The Constitution guarantees this freedom at the highest level: its exercise may be regulated only by law (art. 53.1); an organizational law puts it into effect (art. 81); it receives jurisdictional protection through a preferential and summary procedure, protection by the Constitutional Court (arts. 53 and 161.1(a)), and reinforced protection *vis-à-vis* revision of the Constitution through the special reform procedure (art. 168).

B. The principle of cultural pluralism

The Spanish Constitution of 1978 makes no claim to cultural uniformity - but, on the contrary, establishes a system of cultural pluralism.

Although Spain is one of the oldest States in Europe, neither the passage of time nor the vigorous policy of uniformity pursued through political centralism have succeeded in destroying the distinguishing characteristics of the cultural communities which make up the Spanish State.

Because of the deep concern about this problem, all the political forces involved in the process of drawing up the Constitution were able to reach a basic consensus concerning the need to recognize Spain's cultural pluralism.

However, the Constitution has not limited itself to recognizing the existence of this pluralism. It also reflects, as a further factor in the pluralism, the existence of a common culture: "the service of culture is a duty and essential function of the State" (art. 149.2).

The fundamental point is that the Constitution has broken with the antagonistic and exclusive attitude which had characterized the earlier official view of the dichotomy between the common culture and the other expressions of culture.

This is reflected in article 3, which recognizes linguistic pluralism as a cultural heritage which shall be the object of special respect and protection.

The development of this common culture in the future should be understood as the result of the interaction of all the cultures of the peoples of Spain.

C. The principle of the progress of culture

This relates to the promotion of culture by the public authorities and the obligation to make it accessible to all citizens. The development of material wealth must be accompanied by the development of spiritual wealth, in harmonious balance. This compromise between the two values is precisely what is expressed in the notion of "quality of life" (fifth paragraph of the Preamble).

In the Spanish Constitution, the public authorities' relationship with culture is not limited to the guarantee of its free existence (principle of freedom) and the guarantee of its diversity (principle of pluralism): it also involves the public authorities in the promotion of the cultural development of society in accordance with the general interest and in the access of all persons to culture. Article 44 states: "The public authorities shall promote and protect access to culture, science, and scientific and technical research in the general interest."

In view of the wide range of benefits and services evoked by the concept of culture, the Constitution has chosen to include this right not in the system of protection inherent in public freedoms, but in the system of "governing principles of economic and social policy". "They may only be cited before the ordinary courts in accordance with the provisions of the laws which give them effect" (art. 53.3).

The main features of the cultural decentralization model

The territorial organization of the State and the distribution of public authority in the Spanish Constitution is, to a large extent, a consequence and guarantee of the complex system of cultures of Spanish society. Among the responsibilities transferred to the Autonomous Communities, culture is one of the most important domains, thus establishing an outstanding model for cultural decentralization.

Articles 44.1 and 9.2 already demonstrate that culture is not the exclusive responsibility of any single public authority but of the "public authorities" in the plural.

It is articles 148 and 149 that indicate and specifically state which main public authorities are called on to discharge cultural tasks; they lay down the provisions containing the criteria for the distribution of responsibilities between the State and the Autonomous Communities.

Article 148 establishes that the Autonomous Communities may assume responsibilities as regards "museums, libraries and music conservatoires of interest to the Autonomous Community" (148.1.15); "the monuments of interest to the Autonomous Community" (148.1.16); "the promotion and planning of tourism within Community territory" (148.1.18); and "the promotion of sport and the proper use of leisure" (148.1.19).

Article 149 stipulates that the State has competence in "legislation on intellectual and industrial property" (149.1.9); "the promotion and general coordination of scientific and technical research" (149.1.15); "the basic standards for press, radio and television and, in general, all the mass media, without prejudice to the powers vested in the Autonomous Communities as regards their development and implementation" (149.1.27); and "the protection of Spain's cultural and artistic heritage and monuments against export and pillage, museums, libraries and archives belonging to the State, without prejudice to their management by the Autonomous Communities" (149.1.28).

Apart from this distribution of specific responsibilities, the system's fundamental rule is to be found in article 148.17 and in article 149.2, which assign the "promotion of culture" to the Autonomous Communities and "the service of culture" to the State respectively.

Legal doctrine considers that these two expressions are synonymous, which demonstrates that the cornerstone of the system of responsibilities, as a general rule, is culture as a decentralized matter assigned in its broadest terms to the territorial bodies (Autonomous Communities), but that it is a matter over which the central State authorities simultaneously maintain equally broad powers.

The formula is an unusual one since in other matters the general rule is that the allocation of powers to one territorial body means that these same powers may not simultaneously be entrusted to another territorial body. It is thus possible to speak of the existence of parallel responsibilities, or concurrent responsibilities, to use the words of the Constitutional Court.

Where the local corporations are concerned, the Constitution does not specify what their responsibilities are. In guaranteeing their autonomy, it chooses to define their sphere of responsibilities with the generic expression: "the management of their respective interests" (art. 137).

Act No. 7/1985 of 1 April 1985, governing the Bases of the Local Regime, promulgated to give effect to the provisions of the Constitution, recognizes that local bodies have competence as regards "the historical and artistic heritage, and cultural and sports activities or facilities, use of leisure and tourism" (art. 25.1.(e)).

It also stipulates as a general rule that the "municipalities may carry out activities which supplement those devolving on other public administrations and, in particular, activities relating to education, culture, the advancement of women, housing, health and protection of the environment" (art. 28).

The case law of the Constitutional Court has sanctioned this open concept of institutional cultural pluralism, in asserting that culture is the responsibility of any organized community:

"Since where a community lives culture is manifested, in respect of which the representative public bodies may possess competence ..." (Judgement 49/1984 of 5 April 1984).

The transfer of functions and services

The adaptation of the above situation to the new model of political and administrative decentralization drawn up in the Constitution and supplemented by the Statutes of Autonomy, has required a laborious legal process of transfer of functions and services from the State Administration to that of the Autonomous Communities; this has been carried out by means of what are known as the Royal Decrees on transfers. Evidence of the scope of this process, which occurred mainly between 1980 and 1984, was the promulgation of a total of 57 Royal Decrees relating to transfers in cultural matters.

The long process of transfer was initiated prior to the Constitution, when the "pre-autonomous bodies" were set up; these preceded a provisional system of autonomy for specific parts of the country, operated through Joint Commissions, two for each joint pre-autonomous body, comprising representatives of the State administration and the body in question, plus a government minister who presided over them. The composition was determined by the Decree-Laws establishing the pre-autonomous bodies.

As from 1980 (Royal Decree No. 2968/1980 of 12 December 1980), and due to the need to guarantee greater consistency in the practical unfolding of this process, sectoral commissions responsible for specific subjects were also set up; these were unique to all the Autonomous Communities and had the formal role of bodies assisting the Joint Commissions on which devolved, as from that time, the task of "negotiation" of, and proposals for agreement on, the functions and services which were to be transferred. Action by these Commissions makes possible an agreed procedure which results in agreements submitted to the Council of Ministers for approval by Royal Decree.

The content of the Royal Decrees, generally speaking, takes the following form:

(1) Definition of the functions and identification of the services transferred, specifying the functions to be undertaken by the Autonomous Community, the functions and services to be kept by the State Administration, the functions on which the State and the Autonomous Community will cooperate, and other forms of cooperation between the two entities;

(2) List of the legal provisions affected by the transfers;

(3) List of personnel affected by the transfers;

(4) Heritage resources, rights and obligations affected by the services transferred;

(5) Financial resources inherent in the functions and services transferred.

Because of the enormous technical difficulty of objectively assessing the personnel, heritage and financial resources, at the end of the process further Royal Decrees had to be promulgated containing definitive assessments adjusting the initial assessments.

Structure of cultural pluralism: the principles of unity, solidarity and collaboration

The cultural pluralism adopted by the Spanish Constitution is a complex system requiring rules to allow it to function as a harmonious whole. These are expressed through the following principles:

1. Unitary powers of the State

The constitutional distribution of responsibilities for the majority of cultural matters is based on the technique of sharing of competence which involves the State and the Autonomous Communities dividing powers between them in accordance with various criteria. These include material and functional criteria and criteria of interest.

Partial powers, which have not undergone decentralization, are justified by the need to guarantee throughout the territory of the State a basic structure and a balanced presence of the main institutions through which cultural life finds expression. They concern only the instruments and institutional channels through which culture is expressed or disseminated:

Creation: research (art. 149.1.15)

Dissemination: mass media (art. 149.1.27)

Transmission: education (art. 149.1.30)

2. The principle of solidarity

The structuring of Spain's cultural diversity into a harmonious system is not imposed by central bodies, but requires a convergence of wills and loyalty and collaboration by the parties involved, the State and the Autonomous Communities, and by the latter among themselves (art. 2).

The principle of solidarity, in its moral aspect, is manifested as a reciprocal duty of loyalty and, in its functional aspect, as a need for collaboration. The Constitutional Court has referred to this requirement as a structural duty of the composite State (judgements Nos. 18/1982 of 4 May 1982, 80/1985 of 4 July 1985 and 96/1986 of 10 July 1986).

3. Collaboration between the State and the Autonomous Communities

The inherent complexity of the system of distribution of responsibilities in cultural matters, governed by the principle of full sharing of competence, and the constitutional requirement to promote cultural communication between the Autonomous Communities, "by agreement with them," involves collaboration between the State and the Autonomous Communities.

A. Organizational cooperation

During the period analysed, cooperation activities with the joint participation of the State Administration and the administrations of the Autonomous Communities have become institutionalized by means of structures which are in operation more or less continuously:

> Joint Commissions and sectoral transfer commissions;
>
> Sectoral conferences, attended by the Minister for State Administration and the competent ministers of the Autonomous Communities;
>
> Formulas for shared administration, including the boards of management with representatives of the State and the Autonomous Communities for the management of specific cultural services (Royal Board of Management of the National Library; Royal Board of Management of the Roman Theatre of Mérida Festival; Boards of Management for the protection and management of the Alhambra site in Granada and the sites of the monasteries of Poblet and Yuste);
>
> Another formula for shared administration is constituted by the consortiums in which all the administrations are represented (State, Autonomous Communities and local bodies), set up to develop specific cultural projects (Teatro Liceo, Barcelona; Fine Arts Circle, Madrid; CCOP92-OCSA; Consorcio de Madrid 92);
>
> Another form of cooperation would be participation by representatives of the Autonomous Communities in the State's major consultative bodies (Historical Heritage Council).

B. Functional cooperation

This is expressed through the agreed intention of both administrations in the exercise of their respective legislative and administrative functions.

Collaboration in the exercise of the legislative function is mandatory in those cases in which the Constitution establishes specific regimes under which it is the responsibility of the State to enact the basic legislation and of the Autonomous Communities, if this is what their respective Statutes of Autonomy have undertaken, to implement it or develop legislation (for example, in the case of the press, radio, television and other mass media).

Where cooperation acquires greater significance is in the administrative area:

> One of the sectors where machinery for functional inter-administration coordination and cooperation is most in evidence is that of the historical heritage, in the form of the many agreements signed by the Ministry of Culture for technical and economic aid for the conservation and rehabilitation of the architectural heritage and monuments of the Autonomous Communities. Others establish the bases for the joint creation of the Collective Catalogue of the Bibliographical Heritage;

The policy of creation and expansion of cultural infrastructures is also leading to a large number of cooperation activities in the State, the Autonomous Communities and local corporations, including the plan for the rehabilitation of historic theatres (51 publicly-owned theatres) and the national plan for music auditoriums (8 cooperation agreements);

Another area in which cooperation has been developing considerably in recent years is the revitalization of culture. Revitalization programmes, like "Culturalcampo" or "Cultural Canarias", have been implemented through cooperation agreements between all the administrations involved;

Lastly, it should be recalled that an important source of measures for coordination and cooperation between the State and the Autonomous Communities is to be found in the Royal Decrees on the transfer of functions and services of the Joint Commissions.
